INTERNATIONAL BANKING ACT OF 1978

HEARING

BEFORE THE

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

OF THE

COMMITTEE ON

BANKING, HOUSING, AND URBAN AFFAIRS

UNITED STATES SENATE

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

H.R. 10899

TO PROVIDE FOR FEDERAL REGULATION OF PARTICIPATION BY FOREIGN BANKS IN DOMESTIC FINANCIAL MARKETS

JUNE 21, 1978

Printed for the use of the
Committee on Banking, Housing, and Urban Affairs

INTERNATIONAL BANKING ACT OF 1978

HEARING

BEFORE THE

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

OF THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

UNITED STATES SENATE

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

H.R. 10899

TO PROVIDE FOR FEDERAL REGULATION OF PARTICIPATION BY FOREIGN BANKS IN DOMESTIC FINANCIAL MARKETS

JUNE 21, 1978

Printed for the use of the Committee on Banking, Housing, and Urban Affairs

U.S. GOVERNMENT PRINTING OFFICE
30-563 O WASHINGTON : 1978

CONTENTS

ADDITIONAL STATEMENTS AND DATA—Continued

CHARTS AND TABLES

INTERNATIONAL BANKING ACT OF 1978

WEDNESDAY, JUNE 21, 1978

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS,
Washington, D.C.

The subcommittee met at 10 a.m. in room 5302, Dirksen Senate Office Building, Senator Thomas J. McIntyre (chairman of the subcommittee) presiding.

Present: Senators McIntyre, Proxmire, Sparkman, Stevenson, and Schmitt.

Senator MCINTYRE. The subcommittee will come to order.

Today the subcommittee is conducting its third hearing on legislative proposals governing the activities of foreign banks in the United States.

In January of 1976, the subcommittee held hearings on the original bill submitted by the Federal Reserve Board. On August 31, 1976, the subcommittee held hearings on the International Banking Act of 1976 which passed the House of Representatives on July 30 of that year. There was insufficient time in the Senate to consider the measure prior to the adjournment of the 94th Congress sine die.

Today the subcommittee takes up H.R. 10899, the International Banking Act of 1978 which passed the House of Representatives on April 6 of this year.

In light of the extensive legislative history on this legislation, our purpose today will be to simply highlight the main points of controversy with an overview toward formulating a reasonable and responsible approach to their resolution in this Congress. For my part, I am of the opinion that the climate is now ripe for enactment of this legislation. In previous years, I had some reservation about the necessity for the various proposals before us at that time. I now feel, however, that the continuing growth of foreign banking activity in this country has generated sufficient interest to establish better Federal monitoring of foreign banking activity in this country. Moreover, I believe that the political climate is still relatively calm which, hopefully, will enable us to fashion a rational bill. Further delay may very well result in a more restrictive piece of legislation which, in my opinion, would serve nobody's interest.

As I see it, there are four basic issues of controversy:

1. Section 5, dealing with multi-State banking operations;
2. Section 6, dealing with Federal deposit insurance;
3. Section 7, dealing with the role of the Federal Reserve; and
4. Section 8, dealing with nonbanking activities.

I continue to feel, as I have all along, that section 7, pertaining to the role of the Federal Reserve is the most important provision in the bill.

The issues of multistate branching, Federal deposit insurance and nonbanking activities are, to my mind, secondary to the more fundamental question of the appropriate role of the Federal Reserve both from the standpoint of monetary policy and regulatory control. In fact, one of the reasons I am more favorably inclined to this legislation than to past proposals is that the bill is less restrictive than earlier bills particularly with respect to multistate operations. After all, if a particular State wishes to encourage foreign banks to do business within its borders and does not particularly care whether those same banks happen to be doing business in other States as well, why should the Federal Government care?

Particularly, I fail to see why the Federal Reserve System, given the primary nature of section 7, chooses to focus so much attention on the multistate provisions contained in section 5. Nevertheless, I intend to explore all of these issues today, albeit as succinctly as possible.

Suffice it to say that while I feel there is merit to proceeding with this legislation now I do not believe that this bill warrants a fresh imprimatur on outdated restrictions and limitations. If there is, indeed, a competitive imbalance, which I'm not sure has been demonstrated, then it seems far more sensible to enable U.S. banks to better compete, rather than artificially imposing new restraints on foreign competition.

As a final note, I wish to explain that originally these hearings were to be held today and tomorrow. However, given the potential need for additional time for markup for other bills currently pending before the committee, particularly the New York City financing bill and the Humphrey-Hawkins bill, I was asked by the Chairman, and consented, to compress these hearings into 1 full day. Having rescheduled, I was reluctant to change back, and I hope this will not inconvenience the witnesses scheduled here today.

Therefore, I wish to call Hon. G. William Miller, Chairman of the Federal Reserve Board.

Welcome, Mr. Miller. Glad to see you here.

Senator Proxmire. Mr. Chairman, I have a statement I will make after Mr. Miller finishes if it's all right with you.

Senator McIntyre. Fine. Proceed, Mr. Miller.

STATEMENT OF G. WILLIAM MILLER, CHAIRMAN, FEDERAL RESERVE BOARD

Mr. Miller. Thank you, Mr. Chairman.

I have a prepared statement which I would suggest, with your permission, be placed in the record.

Senator McIntyre. Without objection, it will appear in the record in its entirety.

[Complete statement follows:]

Statement by

G. William Miller

Chairman, Board of Governors of the

Federal Reserve System

I am pleased to appear before this Committee today to present the views of the Board of Governors on H.R. 10899, the International Banking Act of 1978.

Before commenting on the specific provisions of the bill as enacted by the House of Representatives, I should like to review some of the reasons why the Board has for several years supported legislation that would provide a Federal presence in the regulation and supervision of the operations of foreign banks in the United States. These reasons lie in the growth in number and size of foreign bank operations, and their ever-increasing importance to the structure of the banking system and to the functioning of money and credit markets. The latter has obvious implications for the conduct of monetary policy.

The Federal Reserve has welcomed the entry and activities of responsible foreign banks in this country. Some of them are long-time residents here; others are relative newcomers to international banking and to the American market. They have contributed to a more competitive environment in our banking markets and to the more efficient functioning of our money and credit markets. The banking and financial services available to the American consumer and businessman have been enlarged by their presence. In addition, they have behaved responsibly and have given little cause for supervisory concern. The Board's support for Federal legislation to regulate foreign banks has never been intended to curb their ability to operate in this country. Rather, it has been motivated by the desire to provide a secure framework, at the Federal level, in which foreign banks might operate here and which would be fair and equitable to all participants in our banking markets.

I said that one of the reasons why the Federal Reserve has sought legislation in this area has been the growth in the number, size and importance of foreign bank operations in this country. Let me review briefly some of the dimensions of that growth.

When the Board was developing its legislative proposals at the end of 1973, there were about 60 foreign banks operating banking offices in the United with combined assets of about $37 billion. Growth of these operations had been swift in the preceding years and, as the Board stated at the time, that trend was clearly bound to continue. Those expectations have been more than fulfilled. As of April 1978, 122 foreign banks operated banking facilities in the United States with total assets of $90 billion.

Appended to this statement are a series of charts illustrating the growth of the U.S. operations of foreign banks. Since the figures for total assets exaggerate the dimensions of foreign bank activity because of inter-company and clearing transactions, the charts also present data on "standard banking assets," which omit these items. By either measure, as the charts indicate, growth of foreign bank activity is not abating. Additional foreign banks continue to enter the United States and foreign banks with existing facilities here are continuing to expand their activities.

One sector of foreign bank operations underlines their success in penetrating U.S. banking markets. I refer to their commercial lending. The expansion of foreign banks in this segment of the credit market is shown in Chart 4. As of April, U.S. offices of foreign banks had more than $26 billion in commercial and industrial loans. This amount equals about one-fifth of similar loans by large banks that report weekly to the Federal Reserve. In New York, the proportion of commercial and industrial loans accounted for by foreign banks was twice as large. Other aspects of current operations are contained in the Statistical Appendix that has been provided with this statement.

In sum, foreign banks in this country can no longer be characterized as specialized institutions engaged principally in foreign trade financing on the periphery of our banking system. Those days are long since past. On the contrary, what we have today is a diverse array of institutions operating on a very large scale in a wide range of markets for banking services in this country.

At the wholesale level, the foreign banks are competing directly and successfully for the business of multinational corporations. Foreign banks are important participants in U.S. money markets and are also major traders in the U.S. foreign exchange market. And at the retail level, foreign banks are becoming increasingly important, notably in California. In this connection, it is worth remembering that of the 122 foreign banks operating here, 45 have worldwide assets of more than $10 billion, and all but a handful have worldwide assets of more than $1 billion. These institutions are thus to be compared with the largest of our domestic banking organizations.

It is incongruous that institutions such as these can operate on such a scale in this country without being subject to Federal regulation of their entry and activities and without being subject to the rules of the central bank. These institutions are really not a part of our dual banking system. As the dual banking system has evolved in this country, there is some degree of Federal supervision over virtually every bank in the United States. And in practice, the largest banks are member banks of the Federal Reserve System. The Federal Reserve believes that the correction of the anomalous position of foreign banks is overdue.

The Federal Reserve's legislative recommendations on foreign banks have consistently been grounded on the principle of national treatment or nondiscrimination. That principle has a long and respected history in the affairs of this nation. It provides for fair and equitable treatment for all. Currently, by contrast, foreign banks have certain advantages over our indigenous institutions. The Federal Reserve continues to believe that the foreign banking community should be incorporated into the U.S. banking system on an equal footing with domestic banks.

Now I would like to turn to the specific provisions of H.R. 10899. The Board welcomes the achievement of the House of Representatives in passing this Act and believes that it represents considerable progress toward the goal of appropriate legislation in this area. At the same time, the Board believes that the bill is deficient in several respects when viewed against the standard of national treatment. Also, improvements can be made in a number of provisions as they are now drafted. We have already furnished the Committee with detailed suggestions for changes in the bill. I shall not go over them here. Rather, in the remainder of my remarks, I would like to focus on two key sections of the bill: Section 5, dealing with interstate banking, and Section 7, dealing with the Federal Reserve's authority.

Interstate banking has been and is a controversial topic. Opinions differ widely about the wisdom of the existing national policy that bars banks from operating full-scale offices across State lines. It is not surprising, therefore, that Section 5 of the International Banking Act has proven the most controversial. What has been surprising was that, in enacting H.R. 10899, the House of Representatives chose to perpetuate the present situation where foreign banks, but not domestic banks, can operate banking offices on a multistate basis.

As of this April, there were 63 foreign banks operating banking facilities in more than one State. Thirty-one of these institutions were operating in three or more States, through agencies, branches, and subsidiaries. There can be no doubt that these multistate facilities give foreign banks a considerable advantage over their domestic competitors. Under the House-passed bill, these multistate operations are certain to grow further. Additional States have passed legislation to allow branches or agencies of foreign banks to begin operations, and the foreign banks will take advantage of those opportunities sooner or later.

Another oddity of the present structure is that a domestic banking institution, by changing to foreign ownership, can become part of a banking organization with multistate facilities. This possibility is highlighted by the recent announcements by three foreign banks of proposed acquisitions of large domestic banking institutions. The three foreign banks involved already have multistate facilities.

The national policy of barring interstate banking, as embodied in the McFadden Act, needs review. Banking has changed. The structure of the economy and its financial needs have also changed since the McFadden Act was passed over 50 years ago. Pending completion of that review, however, it is inconsistent with the principle of national treatment and unfair to domestic banks to allow foreign banks to continue to expand offices across State lines.

The Board therefore believes that Section 5 of H.R. 10899 should be amended in two respects: first, to provide that the McFadden Act shall apply to Federal branches and agencies; second, to impose on State branches the same geographical restrictions that State laws impose on domestic State banks. Put in this way, the provision would allow foreign banks operating State branches to benefit from any reciprocal arrangements that the States might enter into with regard to interstate banking.

The Board fully appreciates the States' interests in promoting their foreign commerce and foreign investment within their borders. As part of this effort, a number of States have amended their banking laws in recent years to allow foreign banks to operate agencies. These agencies are generally empowered to provide international banking services but not to compete in local deposit banking.

The International Banking Act, as the Board envisages it, would not interfere with the availability of these kinds of facilities in the States. The legislation has always contained a provision to allow foreign ownership of Edge Corporations. As members of the Subcommittee are aware, Edge Corporations were authorized by the Congress as a means of enlarging the international banking facilities available throughout the country without impinging on purely domestic lending or deposit business. Besides allowing foreign banks to own Edge Corporations, the Board would go further and permit them to operate agencies on a multistate basis so long as their business was confined to international operations such as those to which Edge Corporations are limited. This seems to the Board to be a reasonable compromise between the interests of the States and the national interest.

The compromise just mentioned is the approach that is preferred by the Board. Nonetheless, some States contend that this is too restrictive: that foreign banks will not establish limited agencies in their States and that consequently they will be deprived of international financial services. Accordingly, these States do not wish any restrictions on the activities of agencies other than those in State laws. One of their arguments is that even without restrictions, the activities of agencies will be basically of an international character. The Board does not agree with these arguments and believes that the position they advocate is inconsistent with the principle of national treatment. However, the Board would not oppose the legislation if this position on State agencies were followed.

Section 7 of the bill is deficient, in the Board's judgment, in two respects: the coverage on reserve requirements and the supervisory authority of the Federal Reserve.

As enacted by the House, the bill gives the Federal Reserve authority to impose reserve requirements on the deposits and similar liabilities of branches, agencies, and commercial lending companies of foreign banks. Omitted from that authority is the ability to impose reserve requirements on the deposits of their subsidiary banks. This omission evidently stems from the mistaken belief that these subsidiary banks are comparable to the domestically-owned State-chartered banks that have the option of being members of the Federal Reserve System.

I stated earlier that one of the features of the dual banking system, as it in fact operates in this country, is that all the large banks are directly subject to the rules of the central bank. The foreign banks operating in the United States are very large banks, whether measured by their global activities or by the totality of their activities in this country. The operations of their subsidiary banks are now an important segment of those activities, collectively and individually. Total assets of these subsidiaries are about $19 billion while individual subsidiaries range up to $2 billion in size.

Foreign banks operate their agencies, branches, and subsidiaries in this country as an integrated organization. There is little logic, therefore, in subjecting agencies and branches to reserve requirements but exempting subsidiary banks. The latter account for about one-fifth of total foreign bank activity here. In the case of one of the largest foreign bank operations here, nearly half of its activities are conducted in subsidiaries. Foreign bank interest in U.S. subsidiary banks is at a high level. That interest will be encouraged if reserve requirements can be avoided simply by shifting business to a subsidiary.

The other aspect of Section 7 that deserves amendment concerns the Federal Reserve's supervisory authority. As the section now reads, that authority is not commensurate with the responsibilities assigned to the Federal Reserve. The emphasis is on purely State supervision of foreign bank operations, although the Federal Deposit Insurance Corporation would have examining authority under the provisions of Section 6. The Federal Reserve would have no direct examining authority.

The need for a direct Federal presence in the examination of foreign bank operations is patent. These institutions are operating in several States and the banking authorities of individual States are not and can not be equipped to judge the soundness of their operations on a nationwide basis. Furthermore, these are worldwide institutions and their supervision entails dealing with the parent institution overseas and its political and regulatory authorities.

The Board believes that the Federal Reserve should be given the primary examination authority at the Federal level to meet this need. The Federal Reserve possesses the international banking expertise required to fill this role as a result of its regulatory responsibilities for the international operations of member banks, and it already has close working relations with foreign central banks. Moreover, the Act gives the Federal Reserve authority to lend to foreign banks maintaining reserves. In extending credit to domestic member banks, the Federal Reserve relies on the examination process for information on the condition of the borrowing institution and in policing the use of the discount window. Further, the Act gives the Federal Reserve authority and responsibility to employ cease and desist orders dealing with unsafe and unsound banking practices in U.S. offices of foreign banks. Detection and analysis of those practices come out of the examination process. Finally, under the Act, the Board is required within two years to submit legislative recommendations for additional requirements to be made applicable to foreign banks. Informed recommendations will require the kind of firsthand knowledge of the operations of these offices that is obtained through the examination process. For these reasons the Board urges that Section 7 be amended to give the Federal Reserve adequate supervisory authority over foreign bank operations.

30-563 O - 78 - 2

This suggestion, it should be noted, parallels the situation of State member banks. In that case, the Federal Reserve has the primary examining authority at the Federal level with the Federal Deposit Insurance Corporation having residual examining authority. The States have their examining authority as well.

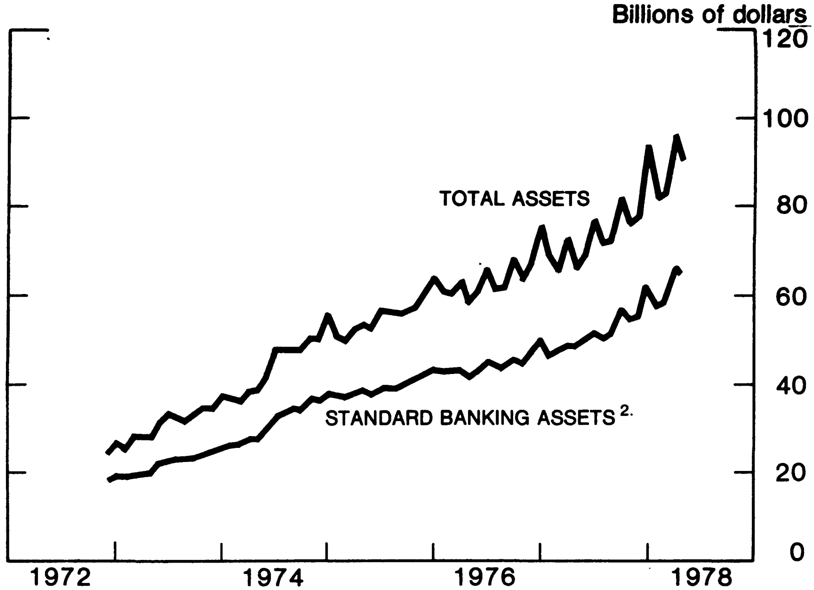
Mr. Chairman, today I have emphasized again the Board's belief in the need for legislation to regulate foreign banks in this country and that the basis for that legislation should be national treatment. Developments since the discussion of the role of foreign banks in this country was initiated have confirmed the growing importance of foreign bank activity in our economy and our financial markets. The issues have been explored and debated at length. The main outlines of the legislative provisions have been determined. In the Board's judgment, this is the year in which action should be taken.

The Federal Reserve has suggested a number of amendments to the legislation. In this statement I have focused on the two main areas in which we believe changes should be made. These changes would be consistent with the principle of national treatment and would provide for adequate supervision of foreign bank activities in the United States. With the amendments that we have suggested, the Board believes that the International Banking Act would equitably resolve the problems that have been raised and would meet the public need.

Chart 1

U.S. Banking Institutions Owned by Foreign Banks

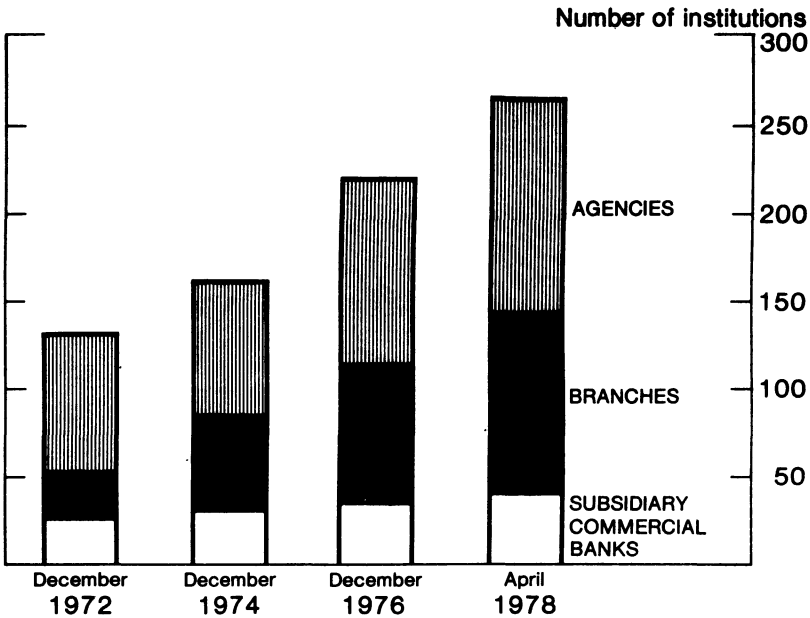
All Institutions [1]



1. Includes agencies, branches, subsidiary commercial banks, Investment Companies and Agreement Corporations.
2. Standard banking assets include loans, money-market assets, and securities, and exclude claims on related institutions and clearing balances.

Chart 2

Number of U.S. Banking Institutions Owned by Foreign Banks[1]



1. Does not include Investment Companies and Agreement Corporations. As of April 1978, foreign banks operated 5 Investment Companies and 2 Agreement Corporations.

Chart 3

Standard Banking Assets by Type of Institution

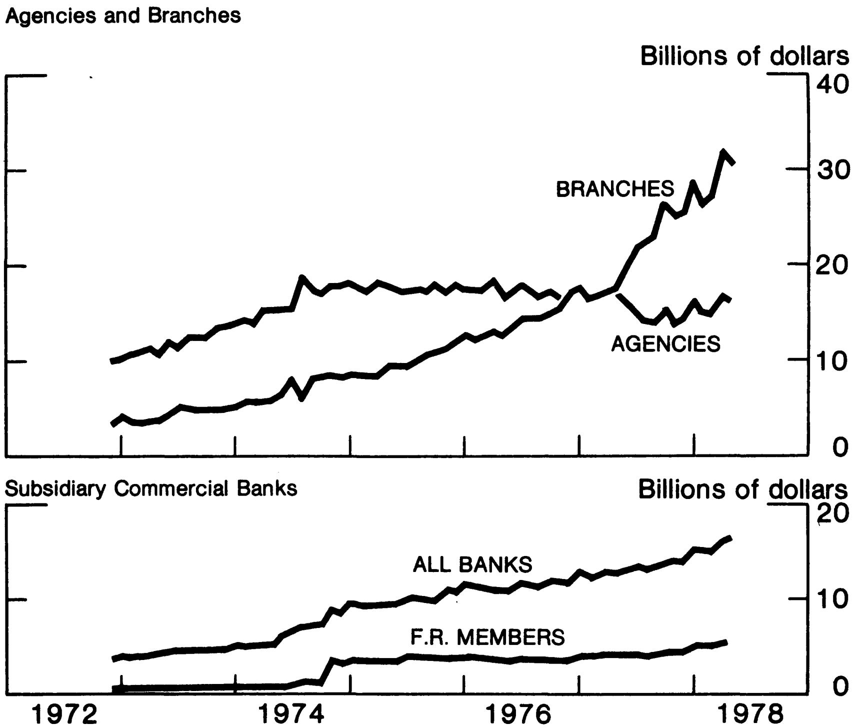


Chart 4

U.S. Banking Institutions Owned by Foreign Banks

Commercial and Industrial Loans

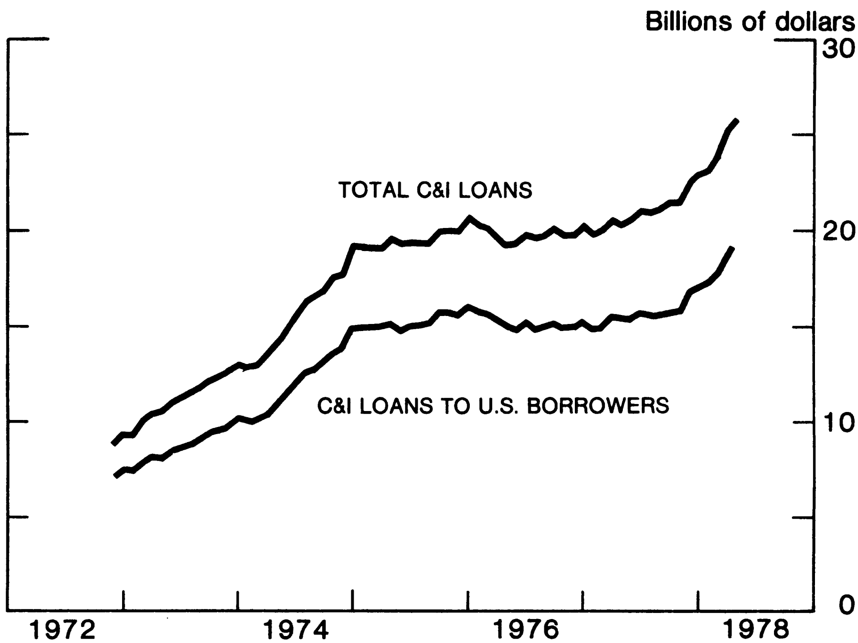
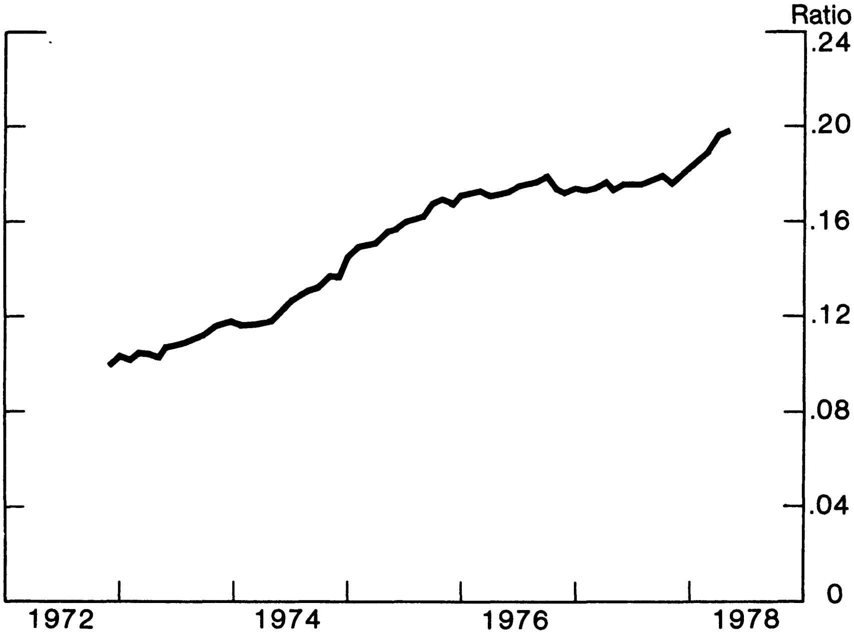


Chart 5

Ratio of Commercial and Industrial Loans at U.S. Offices of Foreign Banks to Similar Loans at Weekly Reporting Banks[1]

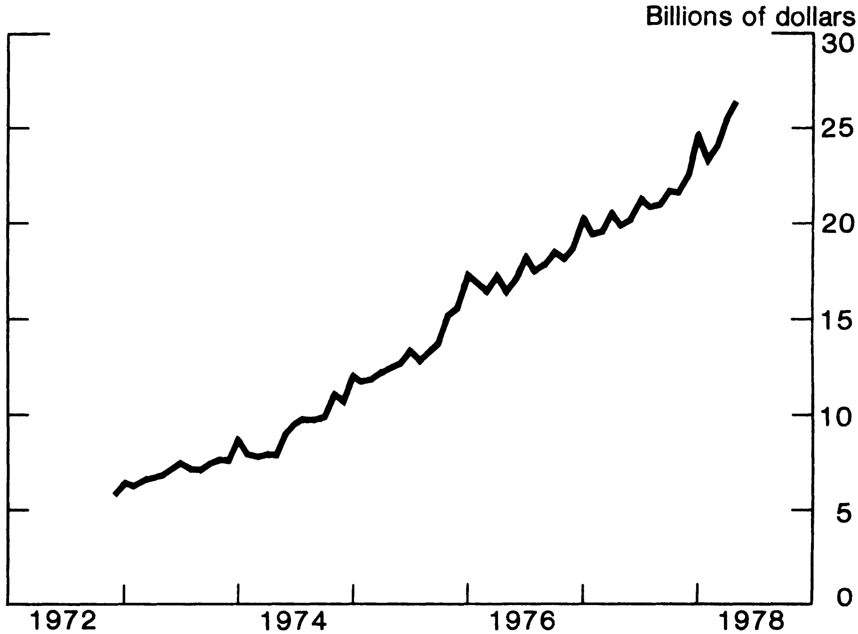


1. There are 315 large banks that report weekly to the Federal Reserve and account for slightly more than one-half of total assets of all insured commercial banks.

Chart 6

U.S. Banking Institutions Owned by Foreign Banks

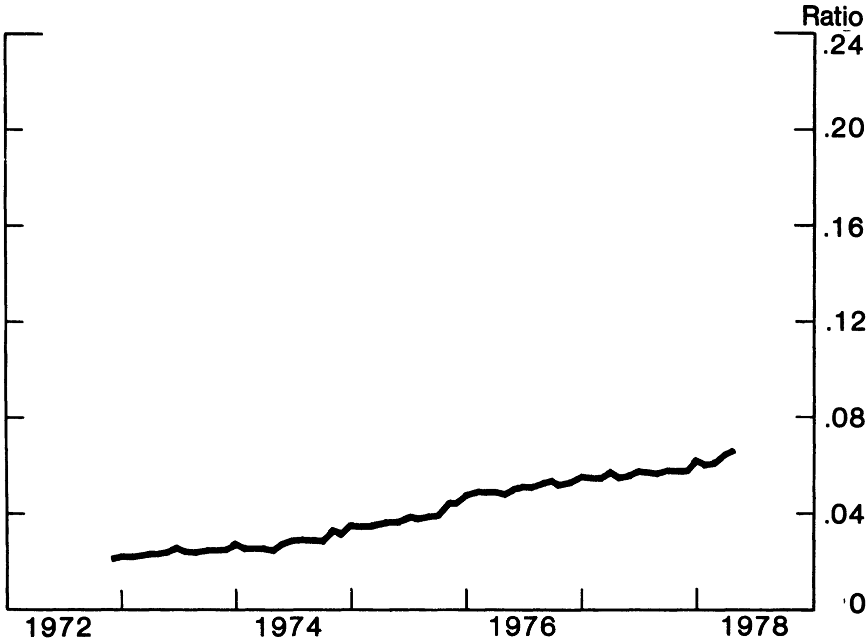
Deposits From Nonbanks[1]



1. Includes credit balances and excludes officers' checks and deposits from banks.

Chart 7

Ratio of Deposits from Nonbanks at U.S. Offices of Foreign Banks to Similar Deposits at Weekly Reporting Banks[1]

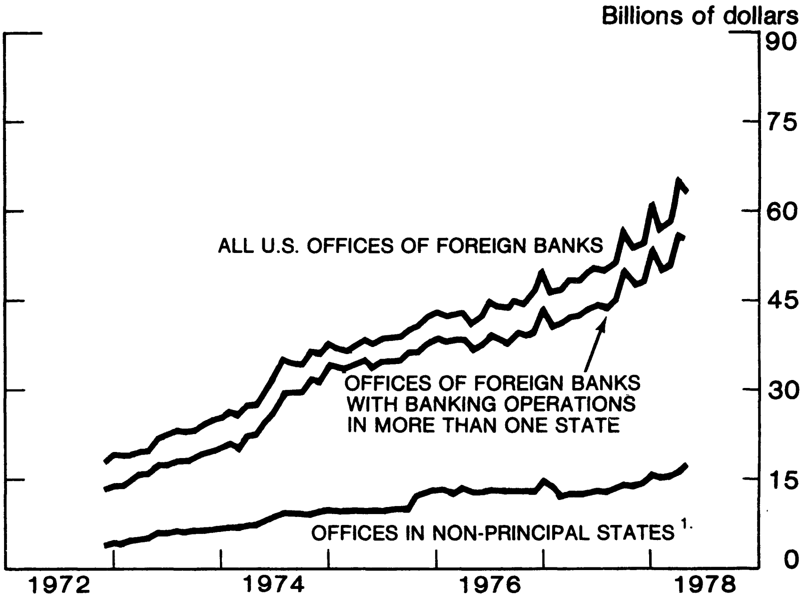


1. Includes credit balances and excludes officers' checks and deposits from banks.

Chart 8

Standard Banking Assets of Foreign Banks In the United States

Multi-state Activity



1. Principal state established using total asset criterion.

Chart 9

U.S. Banking Institutions Owned by Foreign Banks

Standard Banking Assets by Country of Parent

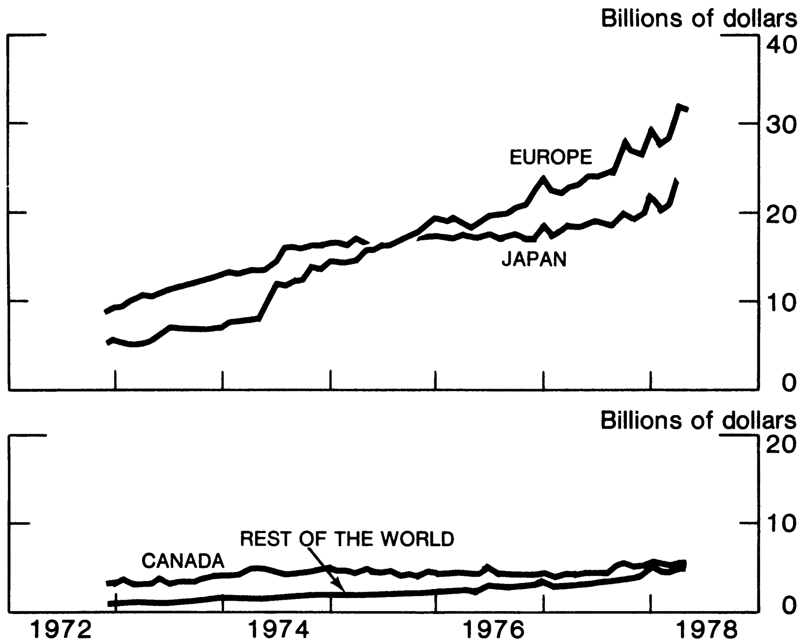


Chart 10

U.S. Banking Institutions Owned by Foreign Banks

Standard Banking Assets by State

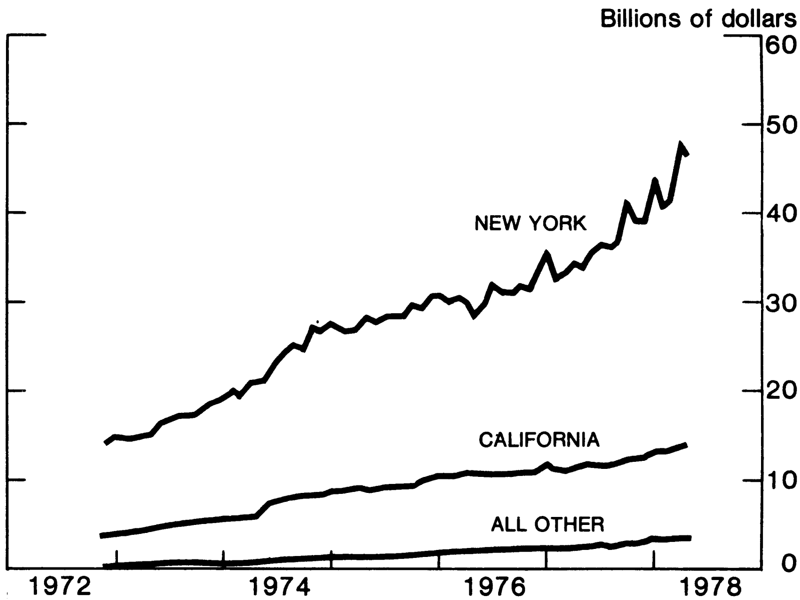


TABLE 1

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN -NOVEMBER 1972
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	AGENCIES	BRANCHES	COMMERCIAL BANKS	INVESTMENT COS.
I. "STANDARD" BANKING ASSETS	18,073	9,959	3,283	3,747	1,084
A. COMMERCIAL & INDUSTRIAL LOANS	8,857	5,585	1,259	1,417	596
1. U.S. RESIDENTS	7,157	4,579	869	1,272	437
2. FOREIGN RESIDENTS	1,699	1,005	390	145	159
B. OTHER LOANS	1,117	107	207	723	80
C. MONEY-MARKET ASSETS	4,133	2,269	1,412	275	176
D. OTHER ASSETS	3,967	1,999	405	1,331	232
II. CLEARING BALANCES	1,968	702	809	283	175
III. DUE FROM RELATED INSTITUTIONS	4,277	2,974	1,211	35	57
1. U.S.	1,762	1,362	388	7	5
2. FOREIGN	2,515	1,612	823	28	53
TOTAL ASSETS/LIABILITIES	24,317	13,635	5,302	4,064	1,316
I. "STANDARD" BANKING LIABILITIES	10,606	3,875	2,729	3,173	828
A. DEPOSITS AND CREDIT BALANCES OF NON-BANKS	5,843	523	1,985	2,882	454
B. BORROWINGS FROM NON-BANKS	313	271	40	3	0
C. INTERBANK LIABILITIES	2,635	1,924	339	123	248
D. OTHER LIABILITIES	1,816	1,158	366	166	126
II. CLEARING LIABILITIES	1,544	786	422	176	160
III. DUE TO RELATED INSTITUTIONS	11,509	8,884	2,106	299	219
1. U.S.	1,971	1,616	138	212	5
2. FOREIGN	9,537	7,268	1,968	87	214
IV. CAPITAL ACCOUNTS AND RESERVES	658	90	45	416	108
NUMBER OF REPORTING INSTITUTIONS	104	50	26	25	3

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

TABLE 2

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN -NOVEMBER 1973
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	AGENCIES	BRANCHES	COMMERCIAL BANKS	INVESTMENT COS.
I. "STANDARD" BANKING ASSETS	25,129	13,685	5,070	4,848	1,526
A. COMMERCIAL & INDUSTRIAL LOANS	12,635	7,897	2,253	1,748	736
1. U.S. RESIDENTS	9,815	6,330	1,326	1,601	559
2. FOREIGN RESIDENTS	2,820	1,567	928	147	178
B. OTHER LOANS	1,443	189	215	987	53
C. MONEY-MARKET ASSETS	5,731	3,193	1,966	390	182
D. OTHER ASSETS	5,320	2,406	637	1,723	555
II. CLEARING BALANCES	2,841	952	1,245	366	279
III. DUE FROM RELATED INSTITUTIONS	6,851	5,732	978	38	104
1. U.S.	2,928	2,745	166	14	3
2. FOREIGN	3,923	2,986	812	24	101
TOTAL ASSETS/LIABILITIES	34,821	20,368	7,292	5,252	1,908
I. "STANDARD" BANKING LIABILITIES	18,333	9,349	3,770	3,999	1,214
A. DEPOSITS AND CREDIT BALANCES OF NON-BANKS	7,672	909	2,581	3,530	652
B. BORROWINGS FROM NON-BANKS	1,371	1,061	273	36	0
C. INTERBANK LIABILITIES	6,996	5,921	572	173	330
D. OTHER LIABILITIES	2,295	1,458	344	260	233
II. CLEARING LIABILITIES	1,945	806	693	224	222
III. DUE TO RELATED INSTITUTIONS	13,664	10,069	2,761	481	353
1. U.S.	3,485	2,601	583	298	3
2. FOREIGN	10,179	7,468	2,178	183	350
IV. CAPITAL ACCOUNTS AND RESERVES	879	145	68	548	120
NUMBER OF REPORTING INSTITUTIONS	124	62	32	27	3

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

TABLE 3

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN -NOVEMBER 1974
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	AGENCIES	BRANCHES	COMMERCIAL BANKS	INVESTMENT COS.
I. "STANDARD" BANKING ASSETS	36,506	17,766	8,218	8,606	1,916
A. COMMERCIAL & INDUSTRIAL LOANS	17,815	10,651	3,662	2,450	1,052
1. U.S. RESIDENTS	13,764	8,500	2,203	2,250	811
2. FOREIGN RESIDENTS	4,051	2,151	1,459	200	241
B. OTHER LOANS	2,779	315	325	2,078	61
C. MONEY-MARKET ASSETS	7,744	3,605	3,339	508	293
D. OTHER ASSETS	8,168	3,195	892	3,570	511
II. CLEARING BALANCES	4,669	1,587	1,905	740	436
III. DUE FROM RELATED INSTITUTIONS	9,273	7,096	1,896	146	134
1. U.S.	4,580	4,201	337	33	8
2. FOREIGN	4,693	2,895	1,560	113	125
TOTAL ASSETS/LIABILITIES	50,447	26,449	12,019	9,492	2,486
I. "STANDARD" BANKING LIABILITIES	27,002	12,457	5,579	7,454	1,511
A. DEPOSITS AND CREDIT BALANCES OF NON-BANKS	10,713	730	3,040	6,319	623
B. BORROWINGS FROM NON-BANKS	1,957	1,300	492	153	12
C. INTERBANK LIABILITIES	10,635	8,101	1,557	382	595
D. OTHER LIABILITIES	3,698	2,327	489	600	282
II. CLEARING LIABILITIES	3,823	2,071	1,057	450	245
III. DUE TO RELATED INSTITUTIONS	18,134	11,688	5,265	593	588
1. U.S.	4,920	3,542	1,033	333	12
2. FOREIGN	13,214	8,145	4,232	260	577
IV. CAPITAL ACCOUNTS AND RESERVES	1,488	233	117	995	142
NUMBER OF REPORTING INSTITUTIONS	152	70	50	29	3

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

TABLE 4

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN -NOVEMBER 1975
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	AGENCIES	BRANCHES	COMMERCIAL BANKS	INVESTMENT COS.
I. "STANDARD" BANKING ASSETS	42,794	17,946	12,007	10,829	2,012
A. COMMERCIAL & INDUSTRIAL LOANS	19,954	10,316	4,843	3,788	1,007
1. U.S. RESIDENTS	15,531	8,526	3,021	3,214	770
2. FOREIGN RESIDENTS	4,424	1,789	1,823	575	237
B. OTHER LOANS	3,422	358	400	2,538	127
C. MONEY-MARKET ASSETS	10,720	3,900	5,546	979	294
D. OTHER ASSETS	8,698	3,373	1,218	3,523	583
II. CLEARING BALANCES	5,595	1,452	2,683	1,040	419
III. DUE FROM RELATED INSTITUTIONS	13,019	8,026	4,469	329	196
1. U.S.	5,295	4,533	657	98	7
2. FOREIGN	7,724	3,493	3,812	231	189
TOTAL ASSETS/LIABILITIES	61,408	27,424	19,159	12,198	2,626
I. "STANDARD" BANKING LIABILITIES	34,185	13,173	9,233	9,915	1,863
A. DEPOSITS AND CREDIT BALANCES OF NON-BANKS	15,653	920	5,376	8,632	724
B. BORROWINGS FROM NON-BANKS	2,226	1,118	1,021	58	28
C. INTERBANK LIABILITIES	12,222	8,472	2,324	628	798
D. OTHER LIABILITIES	4,084	2,663	512	597	312
II. CLEARING LIABILITIES	3,507	1,458	1,336	492	221
III. DUE TO RELATED INSTITUTIONS	21,890	12,508	8,446	566	370
1. U.S.	5,745	3,098	2,287	350	11
2. FOREIGN	16,145	9,410	6,159	216	359
IV. CAPITAL ACCOUNTS AND RESERVES	1,826	285	145	1,225	172
NUMBER OF REPORTING INSTITUTIONS	182	81	64	33	4

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

30-563 O - 78 - 3

TABLE 5

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN -NOVEMBER 1976
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	AGENCIES*	BRANCHES	COMMERCIAL BANKS	INVESTMENT COS.
I. "STANDARD" BANKING ASSETS	47,085	16,810	16,926	11,852	1,497
A. COMMERCIAL & INDUSTRIAL LOANS	19,737	9,629	5,850	3,838	420
1. U.S. RESIDENTS	14,943	7,779	3,619	3,260	285
2. FOREIGN RESIDENTS	4,794	1,850	2,231	577	136
B. OTHER LOANS	4,625	541	305	3,154	125
C. MONEY-MARKET ASSETS	13,649	3,311	8,825	1,058	455
D. OTHER ASSETS	9,075	3,329	1,446	3,803	496
II. CLEARING BALANCES	6,206	1,594	3,031	1,438	144
III. DUE FROM RELATED INSTITUTIONS	14,336	9,131	4,520	489	195
1. U.S.	6,179	5,245	759	124	51
2. FOREIGN	8,157	3,886	3,761	365	145
TOTAL ASSETS/LIABILITIES	67,627	27,535	24,477	13,779	1,836
I. "STANDARD" BANKING LIABILITIES	37,241	12,375	12,571	11,356	938
A. DEPOSITS AND CREDIT BALANCES OF NON-BANKS	18,673	866	7,464	9,860	482
B. BORROWINGS FROM NON-BANKS	3,181	1,233	1,750	126	71
C. INTERBANK LIABILITIES	11,030	7,682	2,660	568	120
D. OTHER LIABILITIES	4,356	2,593	696	802	265
II. CLEARING LIABILITIES	4,309	1,475	1,883	529	422
III. DUE TO RELATED INSTITUTIONS	24,077	13,385	9,856	531	305
1. U.S.	6,386	3,482	2,578	308	17
2. FOREIGN	17,691	9,903	7,278	222	288
IV. CAPITAL ACCOUNTS AND RESERVES	2,001	300	167	1,363	171
NUMBER OF REPORTING INSTITUTIONS	200	91	70	34	5

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

* INCLUDES ONE AGREEMENT CORPORATION.

TABLE 6

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN -NOVEMBER 1977
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	AGENCIES*	BRANCHES	COMMERCIAL BANKS	INVESTMENT COS.
I. "STANDARD" BANKING ASSETS	55,431	14,394	25,385	14,076	1,576
A. COMMERCIAL & INDUSTRIAL LOANS	22,536	7,007	10,565	4,441	523
1. U.S. RESIDENTS	16,888	5,573	7,087	3,803	425
2. FOREIGN RESIDENTS	5,648	1,435	3,478	638	98
B. OTHER LOANS	5,695	690	1,104	3,797	104
C. MONEY-MARKET ASSETS	16,780	4,263	10,931	1,352	234
D. OTHER ASSETS	10,420	2,434	2,785	4,486	715
II. CLEARING BALANCES	8,316	1,312	4,927	1,621	457
III. DUE FROM RELATED INSTITUTIONS	13,935	8,860	4,196	729	150
1. U.S.	4,625	3,536	875	177	36
2. FOREIGN	9,311	5,325	3,321	552	113
TOTAL ASSETS/LIABILITIES	77,682	24,566	34,508	16,426	2,183
I. "STANDARD" BANKING LIABILITIES	45,599	12,444	18,405	13,580	1,170
A. DEPOSITS AND CREDIT BALANCES OF NON-BANKS	22,587	775	9,749	11,545	519
B. BORROWINGS FROM NON-BANKS	3,657	1,242	2,061	328	27
C. INTERBANK LIABILITIES	14,468	8,435	4,965	692	376
D. OTHER LIABILITIES	4,686	1,992	1,630	1,014	249
II. CLEARING LIABILITIES	5,889	1,886	2,658	723	623
III. DUE TO RELATED INSTITUTIONS	23,856	9,991	13,150	519	195
1. U.S.	5,000	2,019	2,799	166	17
2. FOREIGN	18,856	7,973	10,352	354	178
IV. CAPITAL ACCOUNTS AND RESERVES	2,338	244	295	1,604	195
NUMBER OF REPORTING INSTITUTIONS	248	110	98	35	5

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

* INCLUDES 2 AGREEMENT CORPORATIONS.

TABLE 7

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN ----APRIL 1978
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	AGENCIES*	BRANCHES	COMMERCIAL BANKS	INVESTMENT COS.
I. "STANDARD" BANKING ASSETS	64,451	15,916	30,480	16,594	1,461
A. COMMERCIAL & INDUSTRIAL LOANS	25,919	7,862	12,536	5,005	516
1. U.S. RESIDENTS	19,388	6,297	8,326	4,322	442
2. FOREIGN RESIDENTS	6,531	1,565	4,209	684	74
B. OTHER LOANS	6,975	788	1,582	4,497	109
C. MONEY-MARKET ASSETS	19,755	4,433	13,427	1,638	257
D. OTHER ASSETS	11,801	2,833	2,936	5,454	578
II. CLEARING BALANCES	7,583	1,190	4,606	1,618	170
III. DUE FROM RELATED INSTITUTIONS	18,049	11,015	6,032	779	222
1. U.S.	6,237	4,664	1,342	199	32
2. FOREIGN	11,812	6,351	4,690	580	191
TOTAL ASSETS/LIABILITIES	90,082	28,121	41,117	18,992	1,853
I. "STANDARD" BANKING LIABILITIES	53,047	14,068	22,052	15,799	1,128
A. DEPOSITS AND CREDIT BALANCES OF NON-BANKS	26,490	782	12,278	13,006	424
B. BORROWINGS FROM NON-BANKS	4,154	1,481	2,376	271	25
C. INTERBANK LIABILITIES	16,701	9,456	5,446	1,312	486
D. OTHER LIABILITIES	5,702	2,348	1,951	1,210	193
II. CLEARING LIABILITIES	5,614	1,499	3,025	771	319
III. DUE TO RELATED INSTITUTIONS	28,832	12,309	15,727	567	229
1. U.S.	6,577	2,588	3,835	150	4
2. FOREIGN	22,256	9,722	11,892	417	225
IV. CAPITAL ACCOUNTS AND RESERVES	2,589	245	313	1,855	176
NUMBER OF REPORTING INSTITUTIONS	273	123	106	39	5

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

* INCLUDES 2 AGREEMENT CORPORATIONS.

TABLE 8

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN -NOVEMBER 1972
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	NEW YORK	CALIFORNIA	ILLINOIS	OTHER STATES**
I. "STANDARD" BANKING ASSETS	18,073	14,067	3,679	33	52
A. COMMERCIAL & INDUSTRIAL LOANS	8,857	6,704	1,977	15	11
1. U.S. RESIDENTS	7,157	5,278	1,704	15	11
2. FOREIGN RESIDENTS	1,699	1,426	274	0	0
B. OTHER LOANS	1,117	508	531	1	3
C. MONEY-MARKET ASSETS	4,133	3,833	269	6	24
D. OTHER ASSETS	3,967	3,022	902	12	13
II. CLEARING BALANCES	1,968	1,822	121	1	4
III. DUE FROM RELATED INSTITUTIONS	4,277	1,993	1,710	0	148
1. U.S.	1,762	114	1,282	0	124
2. FOREIGN	2,515	1,879	428	0	24
TOTAL ASSETS/LIABILITIES	24,317	17,882	5,511	34	204
I. "STANDARD" BANKING LIABILITIES	10,606	6,390	3,525	15	68
A. DEPOSITS AND CREDIT BALANCES OF NON-BANKS	5,843	3,546	1,671	5	50
B. BORROWINGS FROM NON-BANKS	313	247	66	0	0
C. INTERBANK LIABILITIES	2,635	1,226	1,381	0	8
D. OTHER LIABILITIES	1,816	1,370	408	9	10
II. CLEARING LIABILITIES	1,544	1,479	47	1	0
III. DUE TO RELATED INSTITUTIONS	11,509	9,565	1,740	14	127
1. U.S.	1,971	810	1,034	3	125
2. FOREIGN	9,537	8,755	707	12	2
IV. CAPITAL ACCOUNTS AND RESERVES	658	448	198	5	8
NUMBER OF REPORTING INSTITUTIONS	104	63	34	1	2

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

** EXCLUDES PUERTO RICO AND THE VIRGIN ISLANDS.

TABLE 9

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN -NOVEMBER 1973
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	NEW YORK	CALIFORNIA	ILLINOIS	OTHER STATES**
I. "STANDARD" BANKING ASSETS	25,129	18,858	5,326	74	589
A. COMMERCIAL & INDUSTRIAL LOANS	12,635	8,862	3,149	26	456
1. U.S. RESIDENTS	9,815	6,743	2,704	25	200
2. FOREIGN RESIDENTS	2,820	2,119	444	1	256
B. OTHER LOANS	1,443	492	844	4	10
C. MONEY-MARKET ASSETS	5,731	5,325	370	15	12
D. OTHER ASSETS	5,320	4,179	963	28	111
II. CLEARING BALANCES	2,841	2,531	280	3	11
III. DUE FROM RELATED INSTITUTIONS	6,851	2,512	3,794	5	228
1. U.S.	2,928	102	2,686	1	104
2. FOREIGN	3,923	2,410	1,107	5	124
TOTAL ASSETS/LIABILITIES	34,821	23,901	9,399	82	828
I. "STANDARD" BANKING LIABILITIES	18,333	9,473	8,007	53	264
A. DEPOSITS AND CREDIT BALANCES OF NON-BANKS	7,672	4,926	2,115	21	101
B. BORROWINGS FROM NON-BANKS	1,371	964	402	0	5
C. INTERBANK LIABILITIES	6,996	1,860	5,080	12	41
D. OTHER LIABILITIES	2,295	1,723	411	21	118
II. CLEARING LIABILITIES	1,945	1,872	59	1	1
III. DUE TO RELATED INSTITUTIONS	13,664	11,994	1,048	13	545
1. U.S.	3,485	2,607	389	0	466
2. FOREIGN	10,179	9,387	659	13	79
IV. CAPITAL ACCOUNTS AND RESERVES	879	562	284	14	18
NUMBER OF REPORTING INSTITUTIONS	124	70	41	2	6

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

** EXCLUDES PUERTO RICO AND THE VIRGIN ISLANDS.

TABLE 10

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN -NOVEMBER 1974
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	NEW YORK	CALIFORNIA	ILLINOIS	OTHER STATES**
I. "STANDARD" BANKING ASSETS	36,506	26,680	8,314	426	794
A. COMMERCIAL & INDUSTRIAL LOANS	17,815	12,400	4,350	255	669
1. U.S. RESIDENTS	13,764	9,276	3,821	227	299
2. FOREIGN RESIDENTS	4,051	3,124	529	27	370
B. OTHER LOANS	2,779	1,124	1,500	27	7
C. MONEY-MARKET ASSETS	7,744	6,751	886	86	15
D. OTHER ASSETS	8,168	6,405	1,579	58	102
II. CLEARING BALANCES	4,669	4,269	365	12	7
III. DUE FROM RELATED INSTITUTIONS	9,273	3,455	5,157	13	456
1. U.S.	4,580	283	4,055	6	92
2. FOREIGN	4,693	3,172	1,102	6	364
TOTAL ASSETS/LIABILITIES	50,447	34,403	13,836	450	1,257
I. "STANDARD" BANKING LIABILITIES	27,002	15,040	10,923	259	361
A. DEPOSITS AND CREDIT BALANCES OF NON-BANKS	10,713	7,198	2,969	91	119
B. BORROWINGS FROM NON-BANKS	1,957	1,261	625	66	4
C. INTERBANK LIABILITIES	10,635	3,762	6,618	61	140
D. OTHER LIABILITIES	3,698	2,819	711	40	98
II. CLEARING LIABILITIES	3,823	3,590	215	5	2
III. DUE TO RELATED INSTITUTIONS	18,134	14,768	2,265	165	867
1. U.S.	4,920	3,198	840	64	794
2. FOREIGN	13,214	11,570	1,425	101	73
IV. CAPITAL ACCOUNTS AND RESERVES	1,488	1,006	434	21	27
NUMBER OF REPORTING INSTITUTIONS	152	78	48	14	7

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

** EXCLUDES PUERTO RICO AND THE VIRGIN ISLANDS.

TABLE 11

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN NOVEMBER 1975
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	NEW YORK	CALIFORNIA	ILLINOIS	OTHER STATES**
I. "STANDARD" BANKING ASSETS	42,794	30,558	10,150	1,075	655
A. COMMERCIAL & INDUSTRIAL LOANS	19,954	13,747	4,745	633	575
1. U.S. RESIDENTS	15,531	10,310	4,206	533	266
2. FOREIGN RESIDENTS	4,424	3,437	540	100	309
B. OTHER LOANS	3,422	1,344	1,968	30	10
C. MONEY-MARKET ASSETS	10,720	9,047	1,290	347	32
D. OTHER ASSETS	8,698	6,419	2,146	66	38
II. CLEARING BALANCES	5,595	5,049	445	74	9
III. DUE FROM RELATED INSTITUTIONS	13,019	5,825	5,683	136	1,052
1. U.S.	5,295	482	4,445	42	80
2. FOREIGN	7,724	5,343	1,238	94	972
TOTAL ASSETS/LIABILITIES	61,408	41,432	16,277	1,285	1,717
I. "STANDARD" BANKING LIABILITIES	34,185	20,167	12,438	637	419
A. DEPOSITS AND CREDIT BALANCES OF NON-BANKS	15,653	10,119	4,535	283	279
B. BORROWINGS FROM NON-BANKS	2,226	1,476	645	86	19
C. INTERBANK LIABILITIES	12,222	5,560	6,274	236	98
D. OTHER LIABILITIES	4,084	3,012	985	32	24
II. CLEARING LIABILITIES	3,507	3,193	273	29	3
III. DUE TO RELATED INSTITUTIONS	21,890	16,864	2,997	600	1,265
1. U.S.	5,745	2,834	1,326	375	1,191
2. FOREIGN	16,145	14,029	1,671	225	74
IV. CAPITAL ACCOUNTS AND RESERVES	1,826	1,207	569	19	29
NUMBER OF REPORTING INSTITUTIONS	182	87	58	23	9

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

** EXCLUDES PUERTO RICO AND THE VIRGIN ISLANDS.

TABLE 12

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN -NOVEMBER 1976
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	NEW YORK	CALIFORNIA	ILLINOIS	OTHER STATES**
I. "STANDARD" BANKING ASSETS	47,085	33,327	11,074	1,513	710
A. COMMERCIAL & INDUSTRIAL LOANS	19,737	13,094	4,918	848	613
1. U.S. RESIDENTS	14,943	9,571	4,193	662	269
2. FOREIGN RESIDENTS	4,794	3,523	725	186	344
B. OTHER LOANS	4,625	2,041	2,394	36	34
C. MONEY-MARKET ASSETS	13,649	11,835	1,326	463	19
D. OTHER ASSETS	9,075	6,357	2,436	166	45
II. CLEARING BALANCES	6,206	5,111	622	432	14
III. DUE FROM RELATED INSTITUTIONS	14,336	5,630	6,422	154	1,637
1. U.S.	6,179	760	4,949	49	96
2. FOREIGN	8,157	4,870	1,473	105	1,540
TOTAL ASSETS/LIABILITIES	67,627	44,068	18,118	2,099	2,361
I. "STANDARD" BANKING LIABILITIES	37,241	21,754	12,993	1,249	410
A. DEPOSITS AND CREDIT BALANCES OF NON-BANKS	18,673	11,958	5,190	504	268
B. BORROWINGS FROM NON-BANKS	3,181	2,274	698	191	18
C. INTERBANK LIABILITIES	11,030	4,497	5,883	485	118
D. OTHER LIABILITIES	4,356	3,025	1,221	69	6
II. CLEARING LIABILITIES	4,309	4,069	211	11	6
III. DUE TO RELATED INSTITUTIONS	24,077	16,951	4,273	811	1,913
1. U.S.	6,386	2,323	1,909	372	1,746
2. FOREIGN	17,691	14,627	2,363	439	167
IV. CAPITAL ACCOUNTS AND RESERVES	2,001	1,294	642	27	32
NUMBER OF REPORTING INSTITUTIONS	230	98	61	24	11

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

** EXCLUDES PUERTO RICO AND THE VIRGIN ISLANDS.

TABLE 13

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN -NOVEMBER 1977
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	NEW YORK	CALIFORNIA	ILLINOIS	OTHER STATES**
I. "STANDARD" BANKING ASSETS	55,431	39,130	12,637	1,959	1,049
A. COMMERCIAL & INDUSTRIAL LOANS	22,536	14,495	5,570	1,166	917
1. U.S. RESIDENTS	16,888	10,340	4,756	967	437
2. FOREIGN RESIDENTS	5,648	4,156	813	199	480
B. OTHER LOANS	5,695	2,448	3,016	84	50
C. MONEY-MARKET ASSETS	16,780	14,774	1,423	469	37
D. OTHER ASSETS	10,420	7,412	2,628	240	44
II. CLEARING BALANCES	8,316	7,163	773	303	14
III. DUE FROM RELATED INSTITUTIONS	13,935	8,086	5,121	255	196
1. U.S.	4,625	991	3,378	62	66
2. FOREIGN	9,311	7,095	1,743	193	130
TOTAL ASSETS/LIABILITIES	77,682	54,380	18,531	2,518	1,259
I. "STANDARD" BANKING LIABILITIES	45,599	27,278	15,414	1,437	594
A. DEPOSITS AND CREDIT BALANCES OF NON-BANKS	22,587	14,901	6,022	527	400
B. BORROWINGS FROM NON-BANKS	3,657	2,567	885	178	28
C. INTERBANK LIABILITIES	14,468	6,367	7,244	640	152
D. OTHER LIABILITIES	4,886	3,444	1,263	92	15
II. CLEARING LIABILITIES	5,889	5,574	265	28	7
III. DUE TO RELATED INSTITUTIONS	23,856	19,986	2,143	1,012	616
1. U.S.	5,000	2,907	1,106	602	332
2. FOREIGN	18,856	17,079	1,037	410	285
IV. CAPITAL ACCOUNTS AND RESERVES	2,338	1,541	709	42	42
NUMBER OF REPORTING INSTITUTIONS	248	123	73	30	16

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

** EXCLUDES PUERTO RICO AND THE VIRGIN ISLANDS.

TABLE 14

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN ----APRIL 1978
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	NEW YORK	CALIFORNIA	ILLINOIS	OTHER STATES**
I. "STANDARD" BANKING ASSETS	64,451	45,185	14,333	2,413	1,163
A. COMMERCIAL & INDUSTRIAL LOANS	25,919	16,405	6,415	1,539	1,008
1. U.S. RESIDENTS	19,388	11,508	5,603	1,203	531
2. FOREIGN RESIDENTS	6,531	4,897	812	336	477
B. OTHER LOANS	6,975	3,121	3,434	113	45
C. MONEY-MARKET ASSETS	19,755	17,404	1,635	478	42
D. OTHER ASSETS	11,801	8,255	2,849	282	69
II. CLEARING BALANCES	7,583	6,300	813	256	18
III. DUE FROM RELATED INSTITUTIONS	18,049	10,359	6,327	223	524
1. U.S.	6,237	1,382	4,329	51	119
2. FOREIGN	11,812	8,977	1,998	171	405
TOTAL ASSETS/LIABILITIES	90,082	61,844	21,473	2,893	1,705
I. "STANDARD" BANKING LIABILITIES	53,047	30,927	17,642	1,590	987
A. DEPOSITS AND CREDIT BALANCES OF NON-BANKS	26,490	16,928	6,812	505	646
B. BORROWINGS FROM NON-BANKS	4,154	2,863	1,057	200	34
C. INTERBANK LIABILITIES	16,701	7,213	8,389	763	281
D. OTHER LIABILITIES	5,702	3,922	1,385	123	26
II. CLEARING LIABILITIES	5,614	5,191	353	23	9
III. DUE TO RELATED INSTITUTIONS	28,832	24,035	2,722	1,235	666
1. U.S.	6,577	3,911	1,436	788	321
2. FOREIGN	22,256	20,124	1,286	446	345
IV. CAPITAL ACCOUNTS AND RESERVES	2,589	1,691	756	44	42
NUMBER OF REPORTING INSTITUTIONS	273	131	81	30	21

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

** EXCLUDES PUERTO RICO AND THE VIRGIN ISLANDS.

TABLE 15

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN -NOVEMBER 1972
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	JAPAN	CANADA	EUROPE	REST OF WORLD
I. "STANDARD" BANKING ASSETS	18,073	8,814	3,200	5,176	883
A. COMMERCIAL & INDUSTRIAL LOANS	8,857	5,390	1,098	2,028	340
1. U.S. RESIDENTS	7,157	4,396	987	1,497	278
2. FOREIGN RESIDENTS	1,699	994	112	531	62
B. OTHER LOANS	1,117	378	240	411	88
C. MONEY-MARKET ASSETS	4,133	764	1,409	1,730	229
D. OTHER ASSETS	3,967	2,281	452	1,008	226
II. CLEARING BALANCES	1,968	440	368	923	237
III. DUE FROM RELATED INSTITUTIONS	4,277	1,715	1,465	1,000	97
1. U.S.	1,762	1,451	280	31	0
2. FOREIGN	2,515	264	1,185	969	97
TOTAL ASSETS/LIABILITIES	24,317	10,968	5,033	7,099	1,217
I. "STANDARD" BANKING LIABILITIES	10,606	4,691	1,140	3,914	860
A. DEPOSITS AND CREDIT BALANCES OF NON-BANKS	5,843	1,647	931	2,795	470
B. BORROWINGS FROM NON-BANKS	313	257	0	42	14
C. INTERBANK LIABILITIES	2,635	1,700	108	734	93
D. OTHER LIABILITIES	1,816	1,088	101	344	283
II. CLEARING LIABILITIES	1,544	389	392	658	105
III. DUE TO RELATED INSTITUTIONS	11,509	5,653	3,427	2,227	201
1. U.S.	1,971	1,647	284	34	6
2. FOREIGN	9,537	4,006	3,143	2,192	196
IV. CAPITAL ACCOUNTS AND RESERVES	658	235	73	301	50
NUMBER OF REPORTING INSTITUTIONS	104	28	21	36	19

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

TABLE 16

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN -NOVEMBER 1973
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	JAPAN	CANADA	EUROPE	REST OF WORLD
I. "STANDARD" BANKING ASSETS	25,129	12,517	4,104	7,154	1,354
A. COMMERCIAL & INDUSTRIAL LOANS	12,635	7,774	1,516	2,769	576
1. U.S. RESIDENTS	9,815	6,092	1,365	2,039	319
2. FOREIGN RESIDENTS	2,820	1,682	150	731	257
B. OTHER LOANS	1,443	555	356	391	142
C. MONEY-MARKET ASSETS	5,731	1,273	1,712	2,314	431
D. OTHER ASSETS	5,320	2,914	520	1,680	206
II. CLEARING BALANCES	2,841	686	359	1,587	209
III. DUE FROM RELATED INSTITUTIONS	6,851	3,546	2,129	1,004	172
1. U.S.	2,928	2,780	105	43	0
2. FOREIGN	3,923	766	2,024	961	172
TOTAL ASSETS/LIABILITIES	34,821	16,748	6,592	9,744	1,736
I. "STANDARD" BANKING LIABILITIES	18,333	9,689	1,765	5,836	1,043
A. DEPOSITS AND CREDIT BALANCES OF NON-BANKS	7,672	1,942	1,088	3,948	694
B. BORROWINGS FROM NON-BANKS	1,371	1,014	66	281	10
C. INTERBANK LIABILITIES	6,996	5,241	470	1,046	238
D. OTHER LIABILITIES	2,295	1,491	141	561	102
II. CLEARING LIABILITIES	1,945	418	363	1,042	122
III. DUE TO RELATED INSTITUTIONS	13,664	6,287	4,369	2,520	488
1. U.S.	3,485	3,046	301	124	15
2. FOREIGN	10,179	3,241	4,068	2,396	474
IV. CAPITAL ACCOUNTS AND RESERVES	879	355	96	347	83
NUMBER OF REPORTING INSTITUTIONS	124	33	25	39	27

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

TABLE 17

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN -NOVEMBER 1974
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	JAPAN	CANADA	EUROPE	REST OF WORLD
I. "STANDARD" BANKING ASSETS	36,506	16,222	4,824	13,631	1,830
A. COMMERCIAL & INDUSTRIAL LOANS	17,815	10,414	2,145	4,451	806
1. U.S. RESIDENTS	13,764	8,097	1,986	3,400	281
2. FOREIGN RESIDENTS	4,051	2,316	159	1,051	524
B. OTHER LOANS	2,779	624	459	1,486	210
C. MONEY-MARKET ASSETS	7,744	1,613	1,526	4,084	522
D. OTHER ASSETS	8,168	3,571	694	3,611	292
II. CLEARING BALANCES	4,669	847	531	2,863	428
III. DUE FROM RELATED INSTITUTIONS	9,273	5,553	1,771	1,584	365
1. U.S.	4,580	4,063	254	253	10
2. FOREIGN	4,693	1,490	1,517	1,331	355
TOTAL ASSETS/LIABILITIES	50,447	22,621	7,126	18,078	2,623
I. "STANDARD" BANKING LIABILITIES	27,002	12,892	2,042	10,637	1,431
A. DEPOSITS AND CREDIT BALANCES OF NON-BANKS	10,713	2,351	967	6,691	703
B. BORROWINGS FROM NON-BANKS	1,957	1,185	57	487	228
C. INTERBANK LIABILITIES	10,635	7,167	715	2,398	355
D. OTHER LIABILITIES	3,698	2,189	304	1,061	144
II. CLEARING LIABILITIES	3,823	916	816	1,693	397
III. DUE TO RELATED INSTITUTIONS	18,134	8,321	4,163	4,976	675
1. U.S.	4,920	4,410	254	232	23
2. FOREIGN	13,214	3,911	3,908	4,743	651
IV. CAPITAL ACCOUNTS AND RESERVES	1,488	492	105	772	120
NUMBER OF REPORTING INSTITUTIONS	152	40	25	57	30

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

TABLE 18

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN -NOVEMBER 1975
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	JAPAN	CANADA	EUROPE	REST OF WORLD
I. "STANDARD" BANKING ASSETS	42,794	17,508	4,595	18,510	2,182
A. COMMERCIAL & INDUSTRIAL LOANS	19,954	10,137	2,286	6,540	991
1. U.S. RESIDENTS	15,531	8,278	2,019	4,731	503
2. FOREIGN RESIDENTS	4,424	1,859	267	1,809	489
B. OTHER LOANS	3,422	1,042	372	1,722	287
C. MONEY-MARKET ASSETS	10,720	2,093	1,482	6,584	560
D. OTHER ASSETS	8,698	4,235	455	3,664	343
II. CLEARING BALANCES	5,595	882	594	3,576	543
III. DUE FROM RELATED INSTITUTIONS	13,019	6,051	2,154	4,013	800
1. U.S.	5,295	3,963	172	1,142	19
2. FOREIGN	7,724	2,088	1,983	2,871	782
TOTAL ASSETS/LIABILITIES	61,408	24,441	7,343	26,099	3,524
I. "STANDARD" BANKING LIABILITIES	34,185	13,305	2,310	16,071	1,898
A. DEPOSITS AND CREDIT BALANCES OF NON-BANKS	15,653	3,910	1,007	9,802	934
B. BORROWINGS FROM NON-BANKS	2,226	833	14	1,219	160
C. INTERBANK LIABILITIES	12,222	6,691	1,014	3,891	625
D. OTHER LIABILITIES	4,094	2,472	274	1,159	180
II. CLEARING LIABILITIES	3,507	598	712	1,854	343
III. DUE TO RELATED INSTITUTIONS	21,890	9,269	4,209	7,255	1,157
1. U.S.	5,745	4,419	185	1,129	12
2. FOREIGN	16,145	4,850	4,024	6,126	1,145
IV. CAPITAL ACCOUNTS AND RESERVES	1,826	669	111	919	126
NUMBER OF REPORTING INSTITUTIONS	182	47	25	69	41

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

TABLE 19

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN -NOVEMBER 1976
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	JAPAN	CANADA	EUROPE	REST OF WORLD
I. "STANDARD" BANKING ASSETS	47,085	17,090	4,283	22,718	2,994
A. COMMERCIAL & INDUSTRIAL LOANS	19,737	9,989	2,140	6,776	833
1. U.S. RESIDENTS	14,943	7,970	1,884	4,652	438
2. FOREIGN RESIDENTS	4,794	2,019	256	2,124	395
B. OTHER LOANS	4,625	1,203	575	2,371	475
C. MONEY-MARKET ASSETS	13,649	1,531	1,098	9,826	1,194
D. OTHER ASSETS	9,075	4,367	470	3,746	492
II. CLEARING BALANCES	6,206	1,064	713	3,837	592
III. DUE FROM RELATED INSTITUTIONS	14,336	7,528	2,365	3,093	1,350
1. U.S.	6,179	4,880	175	1,052	72
2. FOREIGN	8,157	2,648	2,190	2,041	1,278
TOTAL ASSETS/LIABILITIES	67,627	25,682	7,361	29,648	4,936
I. "STANDARD" BANKING LIABILITIES	37,241	13,814	2,300	18,308	2,819
A. DEPOSITS AND CREDIT BALANCES OF NON-BANKS	18,673	4,458	1,278	11,595	1,342
B. BORROWINGS FROM NON-BANKS	3,161	930	1	2,037	213
C. INTERBANK LIABILITIES	11,030	5,976	722	3,343	989
D. OTHER LIABILITIES	4,356	2,449	300	1,332	275
II. CLEARING LIABILITIES	4,309	889	381	2,582	456
III. DUE TO RELATED INSTITUTIONS	24,077	10,217	4,567	7,782	1,511
1. U.S.	6,386	5,190	157	936	103
2. FOREIGN	17,691	5,027	4,410	6,846	1,408
IV. CAPITAL ACCOUNTS AND RESERVES	2,001	762	113	975	149
NUMBER OF REPORTING INSTITUTIONS	200	50	25	76	49

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

TABLE 20

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN -NOVEMBER 1977
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	JAPAN	CANADA	EUROPE	REST OF WORLD
I. "STANDARD" BANKING ASSETS	55,431	19,682	5,250	26,424	4,076
A. COMMERCIAL & INDUSTRIAL LOANS	22,536	10,775	2,357	8,088	1,317
1. U.S. RESIDENTS	16,888	8,493	2,084	5,487	824
2. FOREIGN RESIDENTS	5,648	2,282	273	2,600	492
B. OTHER LOANS	5,695	1,651	589	2,882	573
C. MONEY-MARKET ASSETS	16,780	2,683	1,786	10,761	1,552
D. OTHER ASSETS	10,420	4,573	519	4,693	635
II. CLEARING BALANCES	8,316	1,209	533	4,668	1,907
III. DUE FROM RELATED INSTITUTIONS	13,935	4,948	3,503	3,774	1,709
1. U.S.	4,625	3,181	222	1,091	131
2. FOREIGN	9,311	1,768	3,281	2,683	1,578
TOTAL ASSETS/LIABILITIES	77,682	25,839	9,286	34,866	7,692
I. "STANDARD" BANKING LIABILITIES	45,599	16,776	2,963	22,226	3,635
A. DEPOSITS AND CREDIT BALANCES OF NON-BANKS	22,587	5,886	1,681	13,392	1,628
B. BORROWINGS FROM NON-BANKS	3,657	1,404	53	1,929	271
C. INTERBANK LIABILITIES	14,468	6,689	875	5,469	1,435
D. OTHER LIABILITIES	4,836	2,796	354	1,436	301
II. CLEARING LIABILITIES	5,889	1,390	751	2,880	869
III. DUE TO RELATED INSTITUTIONS	23,856	6,837	5,451	8,582	2,986
1. U.S.	5,000	3,473	274	1,100	153
2. FOREIGN	18,856	3,363	5,177	7,482	2,834
IV. CAPITAL ACCOUNTS AND RESERVES	2,338	837	121	1,178	202
NUMBER OF REPORTING INSTITUTIONS	248	59	27	94	68

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

30-563 O - 78 - 4

TABLE 21

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN ----APRIL 1978
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	JAPAN	CANADA	EUROPE	REST OF WORLD
I. "STANDARD" BANKING ASSETS	64,451	22,644	5,676	31,523	4,609
A. COMMERCIAL & INDUSTRIAL LOANS	25,919	12,115	2,692	9,672	1,440
1. U.S. RESIDENTS	19,388	9,353	2,441	6,694	901
2. FOREIGN RESIDENTS	6,531	2,762	251	2,979	540
B. OTHER LOANS	6,975	2,027	670	3,605	673
C. MONEY-MARKET ASSETS	19,755	3,152	1,650	13,173	1,781
D. OTHER ASSETS	11,801	5,350	664	5,073	714
II. CLEARING BALANCES	7,583	1,306	429	3,961	1,888
III. DUE FROM RELATED INSTITUTIONS	18,049	5,511	5,251	5,578	1,708
1. U.S.	6,237	3,765	538	1,749	185
2. FOREIGN	11,812	1,747	4,713	3,829	1,523
TOTAL ASSETS/LIABILITIES	90,082	29,461	11,356	41,061	8,204
I. "STANDARD" BANKING LIABILITIES	53,047	19,678	3,309	25,847	4,214
A. DEPOSITS AND CREDIT BALANCES OF NON-BANKS	26,490	6,868	2,128	15,771	1,724
B. BORROWINGS FROM NON-BANKS	4,154	1,674	7	2,120	352
C. INTERBANK LIABILITIES	16,701	8,034	714	6,287	1,666
D. OTHER LIABILITIES	5,702	3,103	460	1,669	471
II. CLEARING LIABILITIES	5,614	853	809	3,172	780
III. DUE TO RELATED INSTITUTIONS	28,832	8,037	7,091	10,702	3,002
1. U.S.	6,577	4,005	470	1,966	135
2. FOREIGN	22,256	4,032	6,620	8,736	2,867
IV. CAPITAL ACCOUNTS AND RESERVES	2,589	893	147	1,340	209
NUMBER OF REPORTING INSTITUTIONS	273	60	29	101	83

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

TABLE 22

LOCATION OF FOREIGN BANKING INSTITUTIONS IN THE U.S. AS OF APRIL 1978

COUNTRY OF PARENT BANK / STATE OF REPORTER	AGENCIES	BRANCHES	SUB. BANKS	COMM. INVESTMENT COS.	AGREEMENT CORPS.	TOTAL
JAPAN						
NEW YORK	7	17	4	0	0	26
CALIFORNIA	16	-	6	-	0	22
ILLINOIS	-	4	1	-	0	5
ALL OTHERS	0	7	0	-	1	8
TOTAL	21	28	11	0	1	61
CANADA						
NEW YORK	6	0	5	0	0	11
CALIFORNIA	6	-	3	-	0	9
ILLINOIS	-	0	0	-	0	0
ALL OTHERS	1	7	0	-	0	8
TOTAL	13	7	8	0	0	28
UNITED KINGDOM						
NEW YORK	2	4	2	1	0	9
CALIFORNIA	3	-	3	-	0	6
ILLINOIS	-	4	0	-	0	4
ALL OTHERS	1	3	0	-	0	4
TOTAL	6	11	5	1	0	23
CONTINENTAL EUROPE						
NEW YORK	8	26	5	4	0	43
CALIFORNIA	15	-	1	-	0	16
ILLINOIS	-	12	1	-	1	14
ALL OTHERS	3	0	3	-	0	6
TOTAL	26	38	10	4	1	79
REST OF THE WORLD						
NEW YORK	27	12	3	0	0	42
CALIFORNIA	26	-	2	-	0	28
ILLINOIS	-	7	0	-	0	7
ALL OTHERS	2	3	0	-	0	5
TOTAL	55	22	5	0	0	82
ALL REPORTERS						
NEW YORK	48	59	19	5	0	131
CALIFORNIA	66	-	15	-	0	81
ILLINOIS	-	27	2	-	1	30
ALL OTHERS	7	17	3	-	1	31
TOTAL	121	106	39	5	2	273

TABLE 23

LOCATION OF FOREIGN BANKING INSTITUTIONS IN THE U.S.
BY COUNTRY AND "FAMILY" AS OF APRIL 1978

COUNTRY / FAMILY	01	02			06		07	11	12					
	MA	NY	VI	PR	FL	GA	IL	TX	CA	HA	OR	WA	GU	TOTAL
(EUROPE)														
BELGIUM														
KREDIETBANK		B												1
FRANCE														
BANQUE NATLE DE PARIS		B I					B		A S					5
BNQ FRAN DE COM EXT		B												1
BQS ARABES & FRANCAIS		S												1
COMP FIN DE SUEZ		B					B							2
CREDIT COMM DE FRANCE		B												1
CREDIT LYONNAIS		B					B		A					3
GERMANY														
BAYERISCHE HYPO BANK		B												1
BERLIN HANDLS & FRKFT		B												1
BK GEMEINWIRTSCHAFT		B												1
COMMERZBANK		B					B							2
DEUT GENOSSENSCHAFTBK		B												1
DRESDNER BANK		B					B		A					3
UNION BANK OF BAVARIA		B					B		A					3
WESTDEUTSCHE LANDESBK		B												1
GREECE														
NATL BANK OF GREECE		S					B							2
IRELAND														
ALLIED IRISH BANKS		B												1
BANK OF IRELAND		B												1
ITALY														
BANCA COMM ITALIANA		B					B		A					3
BANCA NAZL DEL LAVORA		B												1
BANCO DI NAPOLI		B												1
BANCO DI ROMA		B					B S		A					4
BANCO DI SICILIA		B												1
CREDITO ITALIANO		B							A					2
NETHERLANDS														
ALGEMENE BK NEDERLAND		B				A	B		AA					5
SPAIN														
BANCA CATATANA		A												1
BANCO ATLANTICO		A												1
BANCO CENTRAL		A		S										2
BANCO COMM SAO PAULO		A												1
BANCO DE BILBAO		A												1
BANCO DE SANTANDER		A		S										2
BANCO DE VIZCAYA		A							A					2
BANCO EXTE DE ESPANA		S												1
BANCO URQUIJO		A												1
BCO HISPANO-AMERICANO		A												1
SWEDEN														
SVENSKA HANDELSBANKEN		I												1

TABLE 23

LOCATION OF FOREIGN BANKING INSTITUTIONS IN THE U.S.
BY COUNTRY AND "FAMILY" AS OF APRIL 1978

COUNTRY / FAMILY	01 MA	02 NY	02 VI	02 PR	06 FL	06 GA	07 IL	11 TX	12 CA	12 HA	12 OR	12 WA	12 GU	TOTAL
(EUROPE, CONTINUED)														
SWITZERLAND														
BAER AMER BKG CORP		I												1
SWISS BANK CORP		B				A	B		A					4
SWISS CREDIT BANK		B							A					2
TRADE DEVELOPMENT BK		S												1
UNION BANK OF SWITZ		B					B		A					3
UNITED KINGDOM														
BARCLAYS GROUP	B	B S	B			A	B		A S					8
GRINDLAYS BANK		A												1
LLOYDS GROUP		B					B		S					3
NATL WESTMINSTER BANK		B					B		A					3
SCHRODER GROUP		SI												2
STAND-CHARTERED GROUP		B			A		B		A S			B		6
THOMAS COOK AND SON		A												1
OTHER WESTERN EUROPE														
EUROPEAN-AMER GROUP		SI					C		AA					5
CANADA														
BANK OF BRIT COLUMBIA									A					1
BANK OF MONTREAL		A S							A S					4
BANK OF NOVA SCOTIA	B	A S	B	B S		A			A					8
BANQUE CANAD NATLE		A												1
CANAD IMPL BK OF COMM		A S							A S		B	B		6
ROYAL BANK OF CANADA		A S	B	B					A					5
TORONTO DOMINION BANK		A S							A S					4
(LATIN AMERICA)														
ARGENTINA														
BANCO DE LA NACION		B												1
BRAZIL														
BANCO DO BRASIL		B							AA					3
BANCO NACIONAL		A												1
BANCO REAL		B							A					2
ESTADO DE SAO PAULO		A							A					2
MERCANTL DE SAO PAULO		A												1
COLUMBIA														
BANCO DE BOGOTA		A S												2
MEXICO														
BANCO DE COMERCIO									A					1
BANCO NACL DE MEXICO		A							A					2
VENEZUELA														
BANCO DE VENEZUELA		A												1
BANCO IND DE VENEZUEL		A												1
BANCO UNION		A												1

TABLE 23

LOCATION OF FOREIGN BANKING INSTITUTIONS IN THE U.S.
BY COUNTRY AND "FAMILY" AS OF APRIL 1978

COUNTRY / FAMILY	01 MA	02 NY	02 VI	02 PR	06 FL	06 GA	07 IL	11 TX	12 CA	12 HA	12 OR	12 WA	12 GU	TOTAL
(ASIA)														
HONGKONG														
HONGKONG AND SHANGHAI		B					B		A S			B		5
LIU CHONG HING BANK									A					1
SHANGHAI COMM BANK									A					1
INDIA														
BANK OF INDIA									A					1
STATE BANK OF INDIA		B					B		A					3
IRAN														
BANK MELLI IRAN		A							A					2
BANK SADERAT IRAN		A							A					2
BANK SANAYE IRAN		A												1
BANK SEPAH		A												1
ISRAEL														
BANK HAPOALIM	B	B					B		A					4
BANK LEUMI LE-ISRAEL		A S			A		B		A					4
ISRAEL DISCOUNT BANK		B S												2
JAPAN														
BANK OF TOKYO		A S						C	AA S		B	B		8
CHUO TRUST & BANKING		A												1
DAI-ICHI KANGYO BANK		B					S		A					3
DAIWA BANK		A S							A					3
FUJI BANK		A S					B		A					4
HOKKAIDO TAKUSHOKU		B							A			B		3
INDUST BANK OF JAPAN		A S							A					3
KYOWA BANK		B							A					2
LONG TERM CREDIT		B							A					2
MITSUBISHI BANK		B					B		A S					4
MITSUBISHI TR & BKG		B												1
MITSUI BANK		B							A S			B		4
MITSUI TR & BKG		B												1
NIPPON CREDIT BANK		B												1
SAITAMA BANK		B							A					2
SANWA BANK		B					B		A S					4
SUMITOMO BANK		B					B		A S			B		5
SUMITOMO TR & BKG CO		B												1
TAIYO KOBE BANK		B							A			B		3
TOKAI BANK		B							A S					3
TOYO TR & BKG CO LTD		B												1
YASUDA TR & BKG CO		B												1

TABLE 23

LOCATION OF FOREIGN BANKING INSTITUTIONS IN THE U.S.
BY COUNTRY AND "FAMILY" AS OF APRIL 1978

COUNTRY / FAMILY	FR DISTRICT/STATE 01 MA	02 NY	02 VI	02 PR	06 FL	06 GA	07 IL	11 TX	12 CA	12 HA	12 OR	12 WA	12 GU	TOTAL
(ASIA, CONTINUED)														
KOREA, SOUTH														
BK OF SEOUL KOREA TR		A							A					2
CHO-HEUNG BANK		A							A					2
COMM BANK OF KOREA		A							A					2
HANIL BANK		A							A					2
KOREA EXCHANGE BANK		B					B		A S					4
KOREA FIRST BANK		A							A					2
PAKISTAN														
HABIB BANK		B												1
NATL BANK OF PAKISTAN		B					B							2
UNITED BANK		B												1
PHILIPPINES														
METROPOLITAN BK & TR									A				B	2
PHILIPPINE NATL BANK		B							A	A				3
SINGAPORE														
OVERSEAS UNION BANK		A												1
UNITED OVERSEAS BANK		A												1
CHINA (REPUBLIC OF TAIWAN)														
INTL COMM BK OF CHINA		A					B							2
FIRST COMM BK TAIWAN													B	1
THAILAND														
BANGKOK BANK		A							A					2
AUSTRALIA														
AUSTRALIA-NEW ZEALAND		A							A					2
BK OF NEW SOUTH WALES		A												1
COMM BK OF AUSTRALIA		A												1
NATL BK AUSTRALASIA		A							A					2
TOTALS														
A (AGENCIES)	0	48	0	0	2	4	-	-	66	1	0	0	0	121
B (BRANCHES)	3	59	3	2	0		27	-	-	0	2	8	2	106
S (SUB. COMM. BKS.)	0	19	0	3	0	0	2	0	15	0	0	0	0	39
C (AGREEMENT CORPS.)	0	0	0	0	0	0	1	1	0	0	0	0	0	2
I (NY INVESTMENT COS.)	-	5	-	-	-	-	-	-	-	-	-	-	-	5
ALL REPORTERS	3	131	3	5	2	4	30	1	81	1	2	8	2	273

TOTAL FAMILIES = 122

Mr. MILLER. Then I will just hit a couple of highlights and turn to your questions; perhaps that would be more responsive.

We, at the Federal Reserve, do welcome this legislation. We think it is timely to have appropriate congressional action in the field of foreign banking. So we are hopeful that this hearing and your deliberations will come to a conclusion at an early date. We think the legislation passed by the House is constructive. However, we do feel that there are a few areas where some improvements could be made which, in the light of rapid developments in international banking, would give us the best program for solving Federal regulatory problems.

I would point out that there's been some misunderstanding about the banking structure as it relates to international and foreign controlled banks. I want to stress, at the outset that I favor and the Federal Reserve Board favors—a continued, strong dual banking system in the United States. Our concern, however, is that we are headed presently toward a trilevel banking system, with certain State chartered institutions, and with nationally chartered institutions that are members of the Federal Reserve, and with a potential third level of foreign banks operating in the United States under rules entirely different from domestic banks. We do not think this is a sound structure.

We think that the appropriate approach is for foreign-owned banks to operate on a principle of national treatment—to be treated in the United States the same way that domestically owned and operated banks are treated.

The details of our position and some suggested improvements in the legislation have been submitted to you, Mr. Chairman. I would touch on a couple of points. One—and this refers to the problem—is that we do have a concern that the bill as presently drafted would permit foreign-controlled banks to operate on an interstate basis in ways that domestic banks are not able to do. We think that it would be unwise to proceed in this way and thus allow foreign banks to operate to the disadvantage of American banks which are restricted by the McFadden Act to operations conducted in one State.

I know that this is a controversial issue. Many State regulators have argued that foreign banks bring something different to their areas and that for their own local economic development they need access to foreign banking resources and to international financial services. While we believe that this issue should be addressed through examination of the McFadden Act rather than through this Act, we are sympathetic to that need. And, as we have said, if foreign banks' operations in the various States were limited to agencies or something equivalent to agencies, we would not object to such an approach to solving the problem, although it is not our preferred position.

The other area that I would mention is that of Federal supervision. We have seen, in recent times, proposals for major U.S. banks to be acquired by foreign interests. I think we should have an open system in which, under appropriate circumstances, foreign companies could acquire U.S. banks. But these proposals reemphasize the importance of having a strong Federal presence in the supervision of foreign bank activities.

We can certainly expect to see many more foreign banks in the future with truly national operations through subsidiaries, agency offices, and various grandfathered affiliates. That will continue. And while the States certainly have the capacity and the right to be involved and certainly want to be and should be involved in the supervision of foreign banks from the point of view of a single State's interest, there nevertheless needs to be a broader supervisory outlook. Particularly when you have parent organizations that represent worldwide banking interests of very substantial size, an individual State may not be able to bring together the whole package of activities and give it the proper focus.

Under the present version of the act, if there were any Federal branches of foreign banks, they would be examined by the Comptroller of the Currency. In the case of State branches and subsidiaries, there would be supervision and examination by the FDIC of insured banks. However, under the act, there are quite a few responsibilities cast on the shoulders of the Federal Reserve, including: Responsibilities in connection with cease and desist orders; a requirement that the Federal Reserve discount window be available to foreign banking organizations; and other responsibilities. It would seem to us that there should be concurrent supervisory jurisdiction by the Federal Reserve for examinations of foreign banks, and that at the Federal level the Federal Reserve should have a primary responsibility in connection with the State branches, agencies, and subsidiaries.

Mr. Chairman, my testimony contains more details. I do think however, that the best use of your time would be for me to just end my remarks on these two points and turn to your questions.

Senator McIntyre. Thank you, Mr. Miller.

Mr. Miller, at the outset, I think it's appropriate to emphasize the point you make in your statement, that the foreign banks have behaved as good citizens and that their behavior in that respect is not in question in this bill.

In that vein, to what extent do recent and prospective acquisitions by foreign banks of U.S. banking interests affect the Federal Reserve Board's thinking on this legislation?

Mr. Miller. We certainly want to reemphasize that point about the responsible behavior of foreign banks. And we would hope that our policy in this Nation would be to keep an open door for foreign investment and banking provided that supervision is appropriate and that foreign banking practices are safe and sound.

The only concern that these new trends call to our mind is the need to reinforce the importance of an oversight from the Federal level that is adquate to the responsibility given the Federal Reserve and that is appropriate to the development and the inevitable growth of these foreign-bank operations.

Senator McIntyre. Can you please tell us what the Fed's current thinking is regarding the creation of an international banking zone in New York and conceivably in other locations as well, and whether or not it has any bearing on this legislation?

Mr. Miller. The trends in international banking, Mr. Chairman, involve a number of innovations. The innovation you mention—a foreign window or a domèstic-international banking facility in a place like New York—is certainly worthy of consideration. As you know, New York State has already passed legislation to permit such activities and the matter will soon be before the Board.

I do not believe that any legislation related to this proposal is required at this point. I believe the Board of Governors will look at this proposal on its merits. I hope that innovative ideas will always be given a good hearing and will be approved whenever it appears that they are consistent with our overall banking objectives.

Senator McIntyre. Mr. Miller, have you and the Board considered the soundness of some of the more recent foreign banks which have come to do business in the United States? For example, the earlier foreign banks such as the British come from a country with fairly sound bank regulation. Is there any concern about newer banks coming from countries where bank regulation may not be as strong?

Mr. Miller. Yes, indeed. I think that your point reemphasizes the importance of having an examination authority in a Federal agency that would have the experience and the capacity to look back to the overseas origin of banking resources, that would be able to go to the parent organization and interpret and deal with the multinational activities of the institution, and that would be able to insure that there is no potential for impairing the soundness of banking operations in U.S. offices of foreign banks.

Senator McIntyre. Senator Proxmire.

Senator Proxmire. Mr. Miller, I welcome your appearance here and I want to congratulate the chairman on these hearings. I think they are very significant. I think it's useful for us to get a picture immediately of the size and significance of foreign banking in this country. It's very big. Your statistics seem to conflict with those of Mr. Heimann and with those of Mr. LeMaistre and the others, but I get the general picture that by and large between 8 and 8½ percent of our total banking assets now are foreign controlled, that the momentum is enormous, it's growing very rapidly, that since 1972 it's increased about 250 percent, that in the big loans made in this country 15 percent of them are made by foreign banks, and in New York and California about 30 percent by foreign banks. So it's a big operation.

I'd like to look at this from the standpoint of the effect on American business rather than the effect on the American banks, and there I think it's very salutary. The encouragement for American firms to export, for example, seems to me is very real. A firm who wants to export to Japan or England or to Germany or some other country could get some very useful advice and guidance and help and assistance and contacts from association with foreign banks located in their community or near their community. So I think that's certainly advantageous.

Furthermore, I think you're known as a big inflation fighter. There was a fine article about you in the Wall Street Journal this morning on combating inflation and encouraging imports. It's good and this is a way of doing that, too. Having foreign bankers in this country can certainly help importers and instruct importers on how they can get the imports on the best credit basis and they can get very helpful information in that regard, too. So I think that the overall effect here is very helpful; in addition, of course, to the competition which the banks represent.

Frankly, I have an open mind on the branching, required reserves, the across-the-board requirement for deposit insurance, the grandfathering of security affiliates, the nature of reciprocity and so forth, but it's interesting that you and Mr. Heimann and Mr. LeMaistre disagree on who should be the principal regulating force here. It's another fine argument, you see, in favor of having a comprehensive banking commission.

Mr. Miller. I thought you were going to come to that. You know my position is very clear: I have no objection to a consolidation of regulatory authority as long as it's placed in the Federal Reserve.

Senator Proxmire. Well, that might be a very good alternative. At least it's one. I just have a couple of other remarks I'd like to make and then a question or two.

I think that the problem of regulating foreign banks is going to be with us for a long time and it's going to be more and more complicated and difficult as time goes on and it's going to have a profound effect on how our own banking is conducted.

Let me just read very quickly an excerpt from an observation in Business Week that you may have read. "Sophisticated and aggressive foreign bankers, especially Europeans, are forcing domestic banks to" [reading] this is Roger Anderson, chairman of the Chicago International, the Nation's seventh largest bank—"Foreign banks are keener competitors for industrial and commercial loans and this pattern shows every sign of continuing," to which I say hooray. I think it's great. That's going to be good for our banks as well as foreign banks.

Then the final point I want to make is that this legislation could be even more significant than establishing the rules under which foreign banks compete. It could be the basis for letting the big banks in this country branch across State lines and where would that lead? Possibly to a lot of healthy competition and more credit available and lower interest rates and possibly to a few big banks, if not owning everything, dominating our banking system as they don't now and most of us would not like to see them do it.

Let me ask you this, Mr. Miller. How do you answer the argument that by prohibiting foreign branching you deny all except New York and California from having foreign banks locate there? If a foreign bank is going to locate in this country, they want to be in the act and they are going to have to go to New York, possibly California, maybe Chicago, but certainly not in Milwaukee, Cleveland, Manchester, New Hampshire.

Mr. Miller. Senator, I have two answers to that. One is that I believe American banks are more and more developing their own international capabilities. Banks chartered throughout this country are increasing international financial services to local business and industry through their own branching, agencies, representative offices, and correspondents abroad. So, the first thing is that American banks are themselves fulfilling part of this need.

The other answer is that I do believe there is merit in examining the whole proposition of interstate branching. I have no objection to examining that question on its merits, but it does seem to me to be going in the wrong direction to continue to allow foreign banks to branch across States lines and not allow domestic banks to do that.

Senator Proxmire. I understand the theory, but you see, Mr. LeMaistre points out to us that he can't see, as I understand it, any area where this competition has been damaging to our banking system, at least not yet.

Mr. MILLER. Another answer that I would give is that foreign banks can bring to New Hampshire and Milwaukee and other cities and States access to foreign financing and foreign activities through agency offices, which we have proposed have the same powers as Edge corporations. I think there is a dual answer: American banks are performing all or part of the function, and foreign banks would—through Edge corporation type agencies—be able to provide any international services that domestic banks are not able to provide.

Senator PROXMIRE. Have you had an opportunity to see the remarks of Mr. Dunn on behalf of the Conference of State Bank Supervisors?

Mr. MILLER. No, I haven't.

Senator PROXMIRE. You might want to look at that because he has a very powerful argument which disagreed with the conclusion you just gave us. You may be correct, but you may want to look at his observations.

Mr. MILLER. Senator, quite a few States have laws that allow foreign banking operations. Several States have limited those operations to agencies. They felt—this is true in Georgia as I recall—that the foreign bank agency was adequate to bring in a foreign banking presence and foreign activity. Other States have disagreed.

Senator PROXMIRE. Now in your brief oral remarks you emphasized the desirability of giving the Federal Reserve regulatory authority to a considerable extent here. You say they should have concurrent jurisdiction and in some areas principal jurisdiction with respect to regulation. I'm not sure Mr. Heimann and the extent to which Mr. Heimann disagrees, but he seems in his statement, however, to indicate that his agency has had a great deal of experience too in regulating abroad and in regulating foreign banks and that to the extent these banks become national banks it would seem that the Comptroller of the Currency should have the right to regulate them. Mr. LeMaistre seems to support that position in what he says. He says if they are not national banks and if they are not member banks he thinks they should be under his regulation. But I got the impression that Mr. Heimann was making a very well documented case and that you made an assertion that they ought to be under the Federal Reserve but didn't give much justification as to why they should be under the Federal Reserve and not under the Comptroller of the Currency.

Mr. MILLER. I certainly don't want this to result in a jurisdictional squabble among the regulatory agencies.

Senator PROXMIRE. I'm not asking for a fight. I'm just asking you what the facts are for giving you principal jurisdiction.

Mr. MILLER. Since there should not be a squabble, I think this committee should examine the issue of which of the agencies is best equipped for this particular responsibility.

The reason that the Federal Reserve seemed to us to be the logical authority was because, first, we have certain responsibilities under the act, such as the authority to issue cease and desist orders. Quite often enforcement of safe and sound banking practices arises out of the examination process. If we are to be the enforcers, it seems logical that we should be doing the examinations to find the problems. We are also required, under the act, to come back within a period of time to the Congress with a report on the significance of what has happened under this act and whether any other legislative actions are required. It would be extremely helpful to the Federal Reserve to have, during this period of study for the Congress, access through examination to what is really going on inside the foreign banks.

There is also the fact that under the legislation foreign banks would have access to the discount window of the Federal Reserve. Just as with domestic banks, any such loans need to be made in the context of our being well acquainted with the condition and the operations of the bank. So it is for those kinds of operating reasons that the Federal Reserve would best be fulfilling its responsibilities if it could have examination rights. In the case of State member banks, as you know, we have those powers in concurrence with State supervisors, and we work very effectively with State supervisors so that there is no duplication of examination.

Senator PROXMIRE. Mr. Miller, I do have one more question. My time is just about up. Let me ask you. Mr. LeMaistre has indicated, although his agency is responsible for deposit insurance as we all know, he's indicated that he feels that we might have an optional insurance system. You seem to feel it ought to be across the board and compulsory.

I think the only thing that would concern me is that every depositor should be protected and Mr. LeMaistre seems to be offering a method by which that could be done without bringing the inhibition that comprehensive and compulsory deposit insurance would require.

Mr. MILLER. Senator, I believe the only State that both allows foreign branches and does not require insurance for State banks is Illinois. One point I would make on the issue of deposit insurance is that we are talking about operations of very large banking institutions. We have to be concerned about the possibility in the future of U.S. citizens or any other depositors in these banks or branches incurring losses, because that would be a tremendous setback to the whole development of an open banking system. We just don't need any failures or any losses, and it would be best to attack that issue at the beginning rather than to try to cure it later when some bank gets into trouble. So our preference would be to have a mandatory requirement.

Senator PROXMIRE. Thank you, Mr. Chairman.

Senator MCINTYRE.Thank you.

Senator Sparkman.

Senator SPARKMAN. I have no questions at this time.

Senator MCINTYRE. Senator Stevenson, we are glad to welcome you here to the subcommittee. You couldn't resist the temptation I take it as chairman of the Subcommittee on International Finance.

Senator STEVENSON. You're quite right. I regret that I did resist it earlier and missed Mr. Miller's statement. I hope you will stop me if I'm covering ground that's already been covered. I still haven't had a chance to read all your statement, Mr. Miller, but I share what I detect to be your concern about giving foreign banks privileges not enjoyed by American bank and at some expense also to the Federal Reserve System.

What would you think of trying to compromise this issue of interstate branching in a way that enlarged credit facilities throughout the United States, especially those available for export transactions, which I believe is in the national interest, but limited the deposit-accepting powers of the foreign bank branches by permitting foreign branch banks to accept the same deposits permissible for Edge Corporations in all States who are willing to accept them? That is to say, foreign banks may make loans in any State where the State authorities are prepared to permit them to do so, but limit their deposit-accepting powers, outside of their designated home State, to only those permitted Edge Act corporations. In other words, deposits from foreign sources and in conjunction with export-import transactions.

It would seem to me that would have the effect of enlarging credit facilities, which is probably a good thing, but without subjecting domestic institutions to the competition for domestic deposits. I think you come fairly close to what I'm suggesting, but I go a little bit further. You would permit agencies to operate on a multistate basis as I understand it. Why not branches?

Mr. MILLER. Senator, we are very sympathetic to your point that many areas of the country do need more access to foreign finance and to information about foreign markets. We need investment flowing into this country and we need exports flowing out. If there is a way to design a branch so that it behaves like an Edge corporation, I think that would be a constructive way to serve the needs of local communities while limiting the deposit privileges and activities of those branches or quasi-branches to the international sphere. That's a constructive suggestion.

Senator STEVENSON. I want to make sure you understand what I'm saying. Let me say it clearly. I was suggesting Edge Act powers with respect to deposits but with respect to loans permit domestic loans, permit all of the activities that the State authorities are willing to accept.

Mr. MILLER. I think that would be consistent with the way banks operate now, with their loan production offices all over the country. So I don't see that to be a particular disadvantage. Domestic banks from New York can open their loan production offices in Chicago. So I don't see anything wrong with the direction you suggest.

Senator STEVENSON. Then with respect to Edge Act corporations, isn't it about time that the Federal Reserve liberalized their powers? According to testimony before the Subcommittee on International Finance of this committee, which has been looking into U.S. exports, one of the disabilities to increase exports, self-inflicted, is accessibility to credit and all of the services necessary to facilitate the export transactions. Edge Act corporations can be very helpful, but they are subject to limitations such as the 10-to-1 loan to capital ratio which severely inhibits them. Some of these restrictions are in the law and perhaps we should address those restrictions, including the mandatory 10-percent reserve requirement. Would you comment on the opportunities for liberalizing the powers of Edge Act corporations so as to facilitate exports?

Mr. MILLER. Senator Stevenson, this is not a subject that has been reviewed completely by the Board of Governors so I will speak in a personal capacity. I would think that would be extremely desirable, and I would favor the kind of proposal you are suggesting. The time has come for us in this country to make a major drive to expand our exports generally. It is in our national interest to do so, and it would be in our interest to facilitate that objective in any way possible, including strengthening Edge corporations.

Senator STEVENSON. Will you assure us that the Fed will undertake reviewing these powers?

Mr. MILLER. I certainly will do so.

Senator STEVENSON. If you have suggestions as to what should be done in Congress to complement your efforts, I'm sure the chairman would be glad to have them.

Mr. MILLER. With your permission, I will try to submit to you before your markup any suggestions along these lines.

[The following letter was received for the record:]

BOARD OF GOVERNORS,
OF THE FEDERAL RESERVE SYSTEM,
Washington, D.C., June 30, 1978.

Hon. THOMAS J. MCINTYRE,
Chairman, Subcommittee on Financial Institutions, Committee on Banking, Housing and Urban Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: When I appeared before your Subcommittee on June 21st to testify on the International Banking Act of 1978, two questions were raised by Senator Stevenson on which I promised the Subcommittee a response before the hearing record was closed.

The first question concerned the possibility of allowing foreign banks to operate State branches on a multistate basis in the future provided they do not accept local deposits other than the type of deposits permissible to Edge Corporations. Section 25(a) of the Federal Reserve Act permits Edge Corporations to "receive only such deposits within the United States as may be incidental to or for the purpose of carrying out transactions in foreign countries or dependencies or insular possessions of the United States." Pursuant to that provision the Board has by regulation permitted Edge Corporations to receive deposits in the United States from any person resident outside the United States but has permitted deposits from U.S. residents only for an international purpose or in connection with an international transaction. Imposition of a similar limitation on State branches would make such offices a very close equivalent to State agencies which under the IBA may not accept deposits from U.S. residents but may maintain credit balance for them that are incidental to or arising from banking services.

I stated in my testimony that while it prefers a different solution, the Board would not object were the IBA to permit agencies to be established on a multistate basis. Because of the similarity that would exist between out-of-State branches and agencies under Senator Stevenson's proposal, the Board would not object to an amendment to Section 5 that would impose interstate banking restrictions on foreign banks but would provide an exemption from such restrictions for new State branches that do not accept deposits from U.S. residents other than to the extent permissible to a Corporation organized under section 25(a) of the Federal Reserve Act. It is presumed that such internationally related deposits, like deposits at Edge Corporations would not be federally insured.

The second question, also raised by Senator Stevenson, had to do with the adequacy of the powers of Edge Corporations in connection with financing exports. The Board is desirous that there be no unwarranted statutory or regulatory impediments to the effective functioning of Edge Corporations in providing international financial services throughout the country. Two of the amendments we have submitted would increase the flexibility of Edge Corporations in their international financial operations. One amendment would remove the statutory 10 per cent minimum reserve requirement that Edge Corporations are required to maintain on their U.S. deposits. That minimum is higher than the average reserve prescribed for member banks and, hence, results in the Corporations being placed at a disadvantage. Another amendment would liberalize the current limits on Edge Corporations' liabilities on debentures, bonds, and promissory notes. The Board believes that these amendments would assist Edge Corporations in being more effective institutions and urges their acceptance by the Congress. The IBA already contains a provision that would permit the ownership of Edge Corporations by foreign banks. The Board believes that this provision, together with the Board's proposed amendments, will help make Edge Corporations a more effective force in international financing within the United States.

The Edge Act is a very broadly drawn statute in which Congress has given broad discretionary authority to the Board to prescribe rules governing the operations of Edge Corporations. The Board is mindful of its responsibilities to assure that the rules it prescribes carry out the purpose and spirit of the statute and that those rules are appropriate to changing practices and needs in the field of international finance. Accordingly, it was decided earlier this year to implement a plan for the review of Regulation K governing Edge Corporations and of all Board regulations affecting the international operations of member banks and bank holding companies. The objective of that review is to produce recommendations for appropriate revisions in the Board's regulations by year end. One of the topics of that review will be the permissible activities of Edge Corporations within the United States, particularly as they affect the ability of the Corporations to finance U.S. trade.

Finally, I was also asked at the hearings for comments on the nonbanking provisions of the IBA. As I indicated, certain issues of a somewhat technical nature have been raised by the Board's staff. The Board will consider these issues in the near future.

Sincerely,

BILL.

Senator STEVENSON. Very good. Thank you.

Senator MCINTYRE. Thank you, Senator Stevenson.

Mr. Miller, you know my general feeling that there is little justification for imposing post-depression statutes of the thirties on banking developments taking place today. Indeed, if there is a competitive imbalance with regard to multistate banking operations I think the stronger case is we should liberalize laws pertaining to U.S. banks rather than impose outdated position on the foreign-owned banks. Nevertheless, taken from your testimony, do I assume correctly that you are now prepared to argue that the restrictions that you propose in section 5 should pertain to branches only and not to agencies and should be prospective in nature?

Mr. MILLER. Senator, that is correct.

Senator MCINTYRE. Do I further assume you would grandfather all existing branches as suggested by the Bankers Association for Foreign Trade?

Mr. MILLER. Yes.

Senator MCINTYRE. Mr. Miller, it seems to me there are two fundamental thrusts to this legislation. One goes to the need for Federal control over foreign banking activities and the other goes to those issues which are fundamentally competitive in nature, with regard to the possible need for an increased presence in foreign banking activities, particularly by the Federal Reserve, this involves both consideration of monetary policy and regulatory control.

To the extent that the Fed is given reserve setting authority some foreign banks express concern that the Fed would have the discretionary authority to impose different and perhaps more burdensome requirements on foreign banks than on domestic banks.

What assurances can you give that this in fact would not be the case?

Mr. MILLER. Senator, I am absolutely convinced that the Federal Reserve would impose these reserve requirements consistent with requirements on domestic banks. Our purpose is to create competitive equity. The reason for reserves is for monetary control in part, but also to provide these large foreign banks will be competing on an even basis with large domestic organizations that are comparable in their international scope. It seems to me, again, that while we all want competition and welcome competition, we should also have everybody carrying the same weight. We should handicap everybody the same way. So our approach would be to keep equity and balance in the whole process of applying reserve requirements. That is one reason we believe there should be reserve requirements even for State-chartered subsidiaries. We are talking about large organizations with multibillion-dollar resources, and I think these organizations, however they operate in the United States, ought to be competing on an even basis with comparable U.S. banks.

Senator McIntyre. Similarly, Muriel Siebert, the New York superintendent of banks who will testify later in the day, says that the Fed should have no authority to impose reserves on agencies and commercial lending companies since these entities are barred from accepting deposits and therefore do not function as banks. How would you respond to this?

Mr. Miller. I think our primary interest is to have reserves on transaction balances.

Senator McIntyre. Several witnesses, including the foreign banks, suggest any grandfather date in the bill should be the date of enactment rather than the artificial date of May of 1977. Do you agree with that?

Mr. Miller. Certainly it's essential to have grandfathering. The reason for a fixed date is so that we do not have a rush of activities to beat the deadline. In most legislation, it's wise to lay down the grandfathering date in advance so that everybody is on notice and there is no special treatment. Otherwise, you could have a flood of activities to beat the deadline. I think we want to avoid that.

Senator McIntyre. Isn't the difference of opinion over mandatory or optional FDIC insurance really a matter of the cost of carrying such insurance rather than protection of depositors?

Mr. Miller. We have seen cases of loss to depositors, and the damage to the banking system in terms of public confidence has been serious indeed. One of the greatest things that has happened to banking in recent times has been to acquire that assurance of protetcion of deposits. I think it has been well worth the cost. In the international field, too, the value of being sure that no foreign organization will fail to protect its depositors up to the limits of the insurance is extremely important.

Senator McIntyre. Now do you agree with the Treasury Department that the screening provisions of section 9 should be deleted?

Mr. Miller. The screening provisions of section 9?

Senator McIntyre. Yes.

Mr. Miller. Yes, I don't think they are really needed. I think that would just add more bureaucratic activity; it would be preferable to omit those provisions.

Senator McIntyre. I note that neither in your testimony nor in your letter to the committee is there any mention of section 8, the provision pertaining to nonbanking activities of foreign banks. Do I take it therefore that section 8 in its present form meets with your approval?

Mr. Miller. Some technical aspects of section 8 have been called to my attention recently, and we might have some supplemental comments on it, Senator McIntyre. We do have a different banking structure than in many foreign countries with respect to permissible nonbank activities.

We certainly do not want to have section 8 read as trying to inhibit the normal growth of foreign manufacturing industrial corporations affiliated with foreign banks, whose investments in the United States are in our interest. So there may be a couple of technical points that we would like to call to the staff's attention, but in general the intent of section 8 is certainly proper.

Senator McIntyre. Senator Stevenson.

Senator Stevenson. I have nothing further.

Senator McIntyre. Mr. Miller, thank you very much for your attendance this morning. We appreciate your helpful testimony. There may be further questions we would want to submit to you for the record.

We call as our next witness a panel consisting of Mr. Robert H. Mundheim, General Counsel, Department of the Treasury; the Honorable John Heimann, Comptroller of the Currency; and the Honorable George A. LeMaistre, Chairman, Federal Deposit Insurance Corporation.

I'm informed that Mr. Mundheim has a meeting to attend and so therefore we will ask him to testify and ask him a few questions at the conclusion and then we will proceed to hear from both Mr. LeMaistre and Mr. Heimann and then we will question both of you.

STATEMENT OF ROBERT H. MUNDHEIM, GENERAL COUNSEL, DEPARTMENT OF THE TREASURY

Mr. Mundheim. Thank you, Mr. Chairman.

As you know, the administration generally endorsed this legislation in the House of Representatives last year and as passed by the House it includes a number of changes that we suggested.

I think there's already been discussion of the growing importance of foreign bank operations in the United States. I think I'd just like to make one additional point in that regard and that is that in determining a national policy we must always keep in mind that our regulation of foreign banks may affect foreign government treatment of U.S. banks and other financial institutions operating overseas. The total assets of foreign branches of American banks at the end of February 1978 were almost four times the amount of foreign assets or assets in the U.S. branches of foreign banks. Now the United States has endeavored to offer a hospitable climate for foreign investment by following a policy of "national treatment" under which as few distinctions as possible are made between the treatment of businesses of foreign investors and the same business conducted by U.S. nationals.

In line with that general policy we believe that foreign banks doing business here should be supervised under the same rules and administrative structure as domestic banks; they should be afforded comparable competitive opportunities and be subject to comparable restraints.

Thus, the administration supports the International Banking Act because, for the most part, it furthers the national treatment theme by treating foreign bank operations like operations of banks within the dual banking system and establishes a framework for applying Federal banking policy to them. In those two sections where the bill departs from equal treatment of foreign and domestic banks, interstate branching and Treasury guidelines, we recommend changes. Before discussing those changes, I should like to briefly reiterate our support for several of the bill's other provisions.

[Complete statement follows:]

FOR RELEASE ON DELIVERY
EXPECTED AT 11:00 A.M.
JUNE 21, 1978

STATEMENT OF THE HONORABLE ROBERT H. MUNDHEIM
GENERAL COUNSEL
U.S. DEPARTMENT OF THE TREASURY
BEFORE THE
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE

The International Banking Act of 1978 (H.R. 10899)

Mr. Chairman and Members of this distinguished Subcommittee.

I appreciate the opportunity to testify on behalf of the Administration on H.R. 10899, the International Banking Act of 1978. The Administration generally endorsed this legislation in the House of Representatives last year, and as passed by the House it incorporates a number of changes that we suggested. Subject to two modifications that I will shortly discuss, we continue to favor enactment of the International Banking Act.

The Growth of International Banking

In view of the increasing importance of foreign bank operations in the United States, we agree that Congress should act in this area now. In our testimony before the House Banking Committee on this legislation, we noted that foreign bank operations, although still small in relation to to the domestic banking industry, have been growing in recent years. Total assets of the United States branches, agencies and commercial lending companies of foreign banks have more than tripled during the past five years, increasing to $66

B-992

billion at the end of February 1978, which represents roughly 6 percent of the total assets of all commercial banking operations in the United States.

The growing operations of foreign banks in our economy is a natural outgrowth of expanding international trade and the increasing activity of foreign businesses in the United States. Just as American banks began operating abroad to serve their domestic customers, foreign banks are opening offices in the United States to serve their customers here. Foreign banks contribute to competition in our domestic banking industry and facilitate increased international trade and finance.

In determining a national policy, we must also keep in mind that our regulation of foreign banks may affect foreign government treatment of United States banks and other financial institutions operating overseas. The total assets of foreign branches of American banks at the end of February 1978 were $257 billion, almost four times the $66 billion amount just mentioned.

The Principle of National Treatment

The United States endeavors to offer an hospitable climate for foreign investment by following a policy of "national treatment", under which as few distinctions as possible are made between the treatment of businesses of foreign investors and the same business conducted by United States nationals. In line with this general policy, we believe that foreign banks doing business here should be supervised under the same rules and administrative structure as domestic banks; they should be afforded comparable competitive opportunities and be subject to comparable restraints.

The national treatment concept is superior, in our opinion, to the alternative concept of "reciprocity" which some foreign banks would like us to adopt. Under a policy of reciprocity, we would allow a foreign bank to engage in the United States in all those activities in which American banks are permitted to engage in the home country of the foreign bank, even though we do not permit domestic banks to conduct such activities here. Since countries differ on which activities banks may engage in, the United States under a policy of reciprocity would have to administer different sets of rules for various foreign banks operating in this country, depending on their nationality. This could be an administrative nightmare. Furthermore, the advantages we would have to afford foreign banks under a policy of reciprocity - such as the ability to engage in interstate branching, and a broad range of nonbanking activities - would result in unfair competitive pressures on domestic banks.

Purpose of the Act

The Administration supports the International Banking Act because, for the most part, it furthers the national treatment theme by treating foreign bank operations like operations of domestic banks. It brings branches and agencies of foreign banks within the dual banking system and establishes a framework for applying Federal banking policy to them. In those two sections where the bill departs from equal treatment of foreign and domestic banks, interstate branching and Treasury Guidelines, we recommend changes. Before discussing those changes, I should like to briefly reiterate our support for several of the bill's other provisions.

Extension of the Dual Banking System

Our existing laws and regulations covering foreign banks do not fully reflect the policy of national treatment. On the one hand, they deny foreign banks certain banking opportunities. For example, foreign banks are deterred from establishing national banks. In addition, our laws permit foreign banks to operate branches or agencies, but these operations are unable to obtain Federal deposit insurance.

On the other hand, there is no Federal regulation or supervision of foreign bank branches and agencies, even though almost all domestic banks come under the regulation of either the Comptroller of the Currency, the Federal Reserve Board, or the Federal Deposit Insurance Corporation.

This legislation will, for the first time, enable the Comptroller of the Currency to authorize Federal branches and agencies of foreign banks. It grants those institutions powers similar to those of national banks and permits them to operate in states where state law does not prohibit foreign bank branches and agencies, and where the particular foreign bank does not already have a state-approved facility.

In so doing, it extends Federal regulatory involvement into an important segment of banking activity in the United States presently regulated solely by the states. Foreign banks would then have the option of choosing between a Federal and a state regulatory framework. Such a choice would offer foreign institutions the same Federal and state alternatives now afforded their domestic counterparts.

Federal Deposit Insurance

We believe this legislation satisfactorily addresses the question of Federal deposit insurance for foreign bank branches. Currently, foreign bank branches do not qualify for FDIC insurance. The bill changes this policy in a manner that gives effect to the principle of national treatment: insurance is required for Federal branches and for state branches in those states where domestic state banks are required to obtain deposit insurance. However, we are inclined to support the suggestions of Chairman Miller that the coverage available should include deposits of foreign persons, not just United States citizens and residents.

Nonbanking Activities

Section 8 of the bill deals with the nonbanking activities of foreign banks in the United States. It generally subjects foreign banks maintaining United States branches or agencies to the restrictions on nonbanking activities of the Bank Holding Company Act of 1956, as amended. United States subsidiaries of foreign banks already come under the Bank Holding Company Act.

Under the Bank Holding Company Act prior Federal Reserve Board approval would be required before a foreign bank could engage in new nonbanking activities. Permitted activities for foreign banks would be the same as those authorized by the Board for domestic banks. Nonbanking activities of the foreign parent bank principally outside the United States would be exempt. In addition, all of a foreign bank's nonbanking activities engaged in on May 23, 1977 would be permanently grandfathered.

The focus of much debate in this area has been the activities of United States securities affiliates of foreign banks. Several such organizations engage in securities underwriting activities which are prohibited to American banks or their affiliates. This bill would prevent foreign banks engaged in commercial banking in the United States from also engaging in the securities business here, either directly or through affiliates. However, existing securities operations would be permanently grandfathered. Such a grandfather provision is reasonable and appropriate, because these activities were undertaken in accordance with the existing legal framework and they have made a useful contribution to the capital of securities firms and to the viability of regional stock exchanges.

Proposed Changes in the Bill

Now, Mr. Chairman, let me turn to two portions of the International Banking Act that we believe warrant further change.

Interstate Branching

Except under limited circumstances, states do not permit branch operations by a bank chartered in another state. Similarly, interstate branching is not authorized for national banks because of the provisions of the McFadden Act. However, several states permit -- indeed encourage -- foreign bank branches, even if the same foreign bank has branches in other states.

The International Banking Act would continue the ability of foreign banks to have interstate branches and would extend this ability even to Federal branches so long as expressly permitted by the state involved. It is in this respect that we disagree with the provisions of the bill. Consistent with our espousal of equal treatment for domestic and foreign banks, we believe that section 5 should be amended to make Federal foreign branches subject to the branching rules applicable to domestic national banks, and to make state foreign branches subject to the branching rules applicable to domestic state banks. In order to minimize disruption of existing banking services, we would favor permanent grandfathering of foreign interstate operations engaged in on May 23, 1977.

Interstate branching raises a fundamental competitive question with long-term implications for banking structure in the United States. Technological developments, for example, in the area of electronic funds transfer have increased the urgency of answering that question. If because of the absence of prohibitory legislation, foreign banks develop sizable interstate networks, it may be difficult in the future to decide to terminate those operations, or alternatively not to grant domestic banks the same privilege. We would prefer that for the future branching by foreign banks be placed on the same competitive footing as that of domestic banks. The desirability of interstate branching should be judged on its own merits, with the decision equally applicable to foreign and domestic banks.

Guidelines and Review

The Administration favors deletion of section 9 in its entirety. Section 9 is a carry-over from the concern expressed in some quarters several years ago that the Federal Government should review every potential foreign direct investment to be made in the United States on a case-by-case basis to assure that it was not injurious to the national interest. Thorough investment-policy review concluded that the Federal government should not intervene in private business transactions unless there is a clear public purpose to be served. The mere fact that foreign persons are involved is not a sufficient reason for such intervention.

Section 9 would require a new and, we believe, inappropriate Treasury and Federal role in the establishment of foreign bank operations in the United States: (1) The Secretary of the Treasury would be required to issue guidelines on foreign bank operations in the United States to assist bank regulators acting upon foreign bank applications; (2) state and Federal banking authorities would be required to solicit the views of the Secretaries of Treasury and State and of the Federal Reserve Board; and (3) state and Federal banking authorities would be prohibited from approving a foreign bank's application unless the foreign bank agreed in advance to conduct all its United States operations in full compliance with Federal and state anti-discrimination laws that apply to domestic banks.

We strongly recommend that this remnant of attempts at Federal screening be eliminated from the bill, for several reasons:

(1) it discriminates insofar as it applies to foreign-owned banks only;

(2) it could set an unfortunate precedent for establishing similar procedures for foreign investment in other areas of our economy;

(3) it could induce other countries to introduce or expand restrictions on American financial activities and investments abroad; and

(4) it appears to contradict certain national treatment provisions in our foreign treaties.

We are particularly concerned that Treasury, in preparing guidelines, is required to take account of the treatment afforded United States banks abroad. As I previously stated, we vigorously object to a policy of reciprocity. It could result in a reduction of permissible international banking activities, including those of United States banks abroad, and also create an administrative nightmare in enforcing different sets of rules for different foreign banks operating in this country.

Furthermore, we believe the provision in section 9 requiring a specific pledge to obey domestic anti-discrimination laws before a foreign banking application can be approved is unnecessary and unwise. All domestic and foreign banking operations in the United States already are subject to our anti-discrimination laws.

Conclusion

Thank you, Mr. Chairman, for allowing us to testify on this important bill. We look forward to working with the Subcommittee as further questions arise.

Senator McINTYRE. Mr. Mundheim, I want to thank you for that very straightforward statement you have submitted. On page 2, however, you say:

We must also keep in mind that the U.S. regulation of foreign banks may affect foreign government treatment of U.S. banks and other financial institutions operating overseas.

Are you confident, sir, that this bill, even if modified as you suggest, poses no threat of retaliation of U.S. banking interests overseas?

Mr. MUNDHEIM. Sir, we have had no indication that the bill as it exists with our suggested modifications would give rise to retaliation and particularly since the bill for the most part follows the national treatment principle it seems to me that that is the recognized and appropriate basis for regulation. Therefore, it ought not to provoke any threat of retaliation.

Senator McINTYRE. The suggestion has been made that the grandfather date for all nonbanking activities under section 8 of the bill be made the date of enactment rather than the artificial date of May of 1977. Do you agree with that suggestion?

Mr. MUNDHEIM. What worries me about moving it to the date of enactment, Mr. Chairman, is that you would then encourage a flow of activity, which will later be prohibited, to move in under the deadline. If, for example, however one wanted to move up the date—to today's date, for example—that would not give us any trouble.

Senator McINTYRE. Do you support the contention that we find in the House-passed bill for mandatory FDIC insurance for foreign bank branches? Yet, as you know, the FDIC expert in this area argues strongly for a system of optional versus mandatory insurance. Have you had the time or opportunity to analyze the FDIC's objection to mandatory insurance and can you comment on them at this time?

Mr. MUNDHEIM. Well, sir, as you know, we think that the branches of foreign banks ought to be required to take out FDIC insurance in those cases where their domestic counterpart would be required to take FDIC insurance. We recognize that it presents technical difficulties to insurance branches, but we have had conversations with the FDIC and think that those technical difficulties can be worked out. Therefore, we do support the insurance provisions as they are in the bill.

Senator McINTYRE. Mr. Mundheim, Chairman Miller this morning has proposed permitting agencies of foreign banks to continue to do business on a multistate basis unhampered by this legislation. Do you agree with this suggestion?

Mr. MUNDHEIM. Well, of course, our basic concern has been with branches and we certainly would not object to the suggestion made in his June 1 letter that agencies that are limited in their operations to internationally related activities similar to Edge Act corporations, that they should be allowed to continue on an interstate basis.

Senator McINTYRE. Senator Sparkman.

Senator SPARKMAN. I believe I'd rather wait until we hear from the whole panel, Mr. Chairman.

Senator McINTYRE. All right. Senator Stevenson, do you have any questions?

Senator STEVENSON. Thank you, Mr. Chairman.

Mr. Mundheim, I didn't understand your last answer. Agencies aren't now limited to the powers of Edge Act corporations. You indicated that you had no objection to multistate activities by agencies so long as they were so limited. Are you objecting to the present activities, multistate activities, of agencies?

Mr. MUNDHEIM. Well, sir, I think that what I was addressing myself to was the very specific recommendation made by Mr. Miller in his June 1 letter to Senator Proxmire, I believe, in which he said that a reasonable compromise would be to exempt newly established agencies from interstate restrictions so long as the agencies limit their operations to internationally related activities as are permissible for Edge Act corporations in the United States. I said, as far as that compromise is concerned, we didn't have any objection to it.

I think that you're asking me whether or not any agency activity ought to be permitted, and I'm a little more cautious about that, although I think the argument can be made and I guess is made that the activities of agencies are not terriby different from the activities of loan production offices of domestic banks. To the extent that that is true, then allowing foreign banks to have multistate agency operations wouldn't put them on any competitively better basis than domestic banks. I guess the critical question is whether or not agencies and loan production offices really are precisely the same.

Senator STEVENSON. Well, you're getting a little ahead of me. I was going to ask you what the basis was for distinguishing between agencies and branches and, sharing your views about the desirability of parity between foreign and domestic institutions, ask if the Treasury would have objections to permitting agencies and branches to engage in such multistate activities as the States are willing to permit, except that their deposit taking activities, outside of their home State, would be limited to those of Edge Act corporations. That would give you rough parity, multistate lending activities for the sake of larger credit facilities in the United States, particularly for facilitation of export transactions, and on the deposit side an opportunity to bring in deposits from abroad and in connection with such transactions and on a basis that's available to domestic institutions through their own Edge Act corporations.

Now how do you feel about that as a means of skinning a couple of cats and still producing parity?

Mr. MUNDHEIM. I have a feeling you're ahead of me on that.

Senator STEVENSON. That's my job.

Mr. MUNDHEIM. I think that again the critical question is a factual one I'd like you to give me an opportunity to go and answer you on a factual basis as to what would be permitted of Edge Act corporations of domestic banks—and that's all that would then be permitted to the agencies or this newly structured form of branch which you will allow——

Senator STEVENSON. On the deposit side.

Mr. MUNDHEIM. On the deposit side.

Senator STEVENSON. Then we'll come to what those powers should be.

Mr. MUNDHEIM. I think the underlying point that we want to stress and we think is important is that the operations of the foreign bank and the operations of the domestic bank be treated in a similar manner. I take it that that's your point also, so all there is left is a question of a factual determination of whether or not the kind of structure you suggest would produce that equality, and all I'd like is some time, and we will do that rapidly, to get back to you on that.

Senator STEVENSON. I'm going a little further than that and suggesting there's an additional consideration and that consideration is the enlargement of the facilities with which to service exports. The branches and the agencies would have wide open multistate powers, assuming the States permitted, and for the purpose of making facilities primarily for export transactions more adequate than they are now. I don't think they are adequate now on the basis of some rather lengthy hearings before this committee. On the deposit side we have parity, the Edge Act restrictions, and then, if I can enlarge the proposition for you and invite your comments on it, too—enlarged Edge Act powers, as I was trying to suggest to Mr. Miller. Some of the regulations, I think, really aren't in conformity with the intent of Congress. They are overly restrictive. They impose stricter restraints on Edge Act corporations than on banks. Some are statutory, as in the case of the discriminatory reserves requirements. So, how should those Edge Act powers, through regulation and law, be liberalized, if at all, to achieve that second purpose, the facilitating of trade and particularly export transactions. That would be helpful to us also.

Mr. MUNDHEIM. I'll be glad to do that. I think what you say points out what's a very real problem that has got to be looked at as it applies to both domestic and foreign banks. What we worry about is that you give a special position to the foreign banks and in that way prejudge the answer to the question on the domestic side. That's what we worry about and that's what worries us about the present structure of section 5.

Senator STEVENSON. Well, we've got more worries than that, but that's a legitimate concern and I certainly share it. But I think there are also some opportunities here to draw upon the resources of foreign institutions for our own benefit and without penalizing domestic institutions and that, it seems to me, ought to be the broader objective.

Thank you, Mr. Chairman.

Senator MCINTYRE. Thank you, Senator.

Senator Schmitt.

Senator SCHMITT. Mr. Chairman, I'm sorry to come in late and I would only ask one question and then listen to the rest of the panel, and you may have answered this. If you have, I will go read the record.

Do you see in the proposals we are discussing today a danger of inequities from State to State based on the differences between State regulatory practices on domestic banks versus what we're talking about here, which is equity on a Federal scale between foreign and domestic banks?

Mr. MUNDHEIM. Well, obviously, our dual banking system contemplates that there would be differences in the State approaches to regulation and any bank——

Senator SCHMITT. But those differences are established knowingly by the States. Are we doing anything in this legislation that unknowingly in a sense would increase the disparity between States? For example, Senator Stevenson's State, I believe does not allow branching in any significant way, whereas many other States do. Can anything we do here cause that difference to be accented between Illinois and other States?

Mr. MUNDHEIM. Well, I think any bank or foreign branch that acts in Illinois is still going to be basically governed by the particular approach of that State.

Senator SCHMITT. Are foreign banks allowed to branch within Illinois whereas domestic banks are not at this time?

Senator STEVENSON. Foreign banks can have a branch in Illinois, yes, if that's the question.

Mr. MUNDHEIM. Yes. It can have one branch which really serves the same function as one bank which you could have in Illinois, but I don't think the bill changes any of your underlying ground rules. I mean, to the extent that one State is more restrictive, those same restrictions are still going to apply. As you know, we don't have one set of national rules that apply to all banks operating in the United States.

Senator SCHMITT. Well, let me try again. The present situation is such that foreign banks have a number of different advantages over domestic banks. That's the reason we're here today presumably. Now is there anything in the legislation as you have examined it that would increase those advantages rather than decrease them, taking into account the differences between State banking regulations?

Mr. MUNDHEIM. I think what the proposed legislation does is it preserves the competitive advantage that foreign banks have to engage in interstate branching and that is a provision of the act which we would urge you to change because it provides that kind of competitive advantage. So in that respect, the bill does preserve an advantage which foreign banks have over domestic banks.

Senator SCHMITT. Thank you.

Senator MCINTYRE. Mr. Mundheim, you are excused.

Senator SPARKMAN. Mr. Chairman, I'd like to ask him just one or two questions before he leaves.

Senator MCINTYRE. Certainly.

Senator SPARKMAN. I believe I understood you to say that the grandfather clause if it's to be invoked should be done immediately; is that right, not any future date set?

Mr. MUNDHEIM. In other words, I wouldn't want you to set a date some time in the future because that's simply a target for everybody to rush in. We've got a date of May of 1977. If you would change that to May of 1978 that wouldn't trouble us.

Senator SPARKMAN. Now, you recommend I believe that section 9 be deleted.

Mr. MUNDHEIM. Yes, sir.

Senator SPARKMAN. Briefly, what is section 9?

Mr. MUNDHEIM. Section 9 would require Treasury guidelines to be issued on how you would regulate the operations of foreign banks. It would require foreign banks in connection with their applications to agree to comply with U.S. laws against discrimination which laws would be applicable to them anyway, and it would require that before the appropriate regulator could pass on an application they would have to give information and wait 30 days for comments from Treasury, State, and one or two other governmental agencies.

Senator SPARKMAN. Thank you.

[The following letter was received for the record:]

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C. July 5, 1978.

Hon. THOMAS J. MCINTYRE,
Chairman, Subcommittee on Financial Institutions, Committee on Banking, Housing and Urban Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: I would like to respond to two questions asked by Senator Stevenson following my testimony on the International Banking Act. He asked if the Administration would object to foreign bank branches performing such multi-state activities as the individual states would allow so long as the branches' deposit-taking functions were restricted to the same deposit-taking functions permitted Edge Act corporations under Federal law. He also inquired whether the Administration would favor liberalization of some of the statutory restrictions on Edge Act corporations to facilitate their furtherance of international trade.

EDGE ACT CORPORATIONS

The Administration's basic concern is that foreign bank operations in the United States be accorded "national treatment" or competitive equality with the domestic operations of American banks. The liberalization of Edge Act corporation powers, as embodied in the International Banking Act of 1978 and in the proposed amendments to the Act submitted by the Federal Reserve Board, is consistent with our national treatment objective.

The Act, as passed by the House, removes any restriction on the nationality of Edge Act corporation directors. This should facilitate the use of such corporations by foreign banks. Edge Act subsidiaries have been employed by American banks for some time in their domestic as well as their overseas operations. Elimination of the nationality restriction could have the practical effect of making Edge Act corporations equally attractive to both American and foreign banks financing international trade to and from the United States. Thus, our national treatment objective and Senator Stevenson's desire to stimulate foreign trade should both be enhanced by Section 3(a) of the International Banking Act.

We also support the Federal Reserve Board's amendments to the Act to give Edge Act corporations greater flexibility in their operations. The amendments would—

(1) allow Edge Act corporations to issue, with prior Board approval, notes, debentures and bonds in excess of the present statutory limit of 10 times the corporation's capital and surplus. This amendment would permit the Board to authorize a more leveraged capital structure for corporations in sound condition. Such leverage would be comparable to that available to many competing domestic banks.

(2) remove the minimum 10 percent reserve requirement on domestic deposits of Edge Act corporations in order that the Board may establish uniform reserve requirements for branches, agencies and Edge Act subsidiaries of large foreign banks. The amendment conforms with Section 7 of the International Banking Act, which would give the Federal Reserve Board authority to establish reserve requirements with no minimum for branches and agencies of foreign banks with assets over one billion dollars.

We understand that the Federal Reserve Board has initiated a thorough review of the Edge Act. When the review is completed, the Board will propose appropriate changes in its Edge Act regulations and also propose to Congress any desirable modifications of statutory provisions. We believe this study is timely, and we plan to keep in close contact with the Federal Reserve on the study's progress and developments.

INTERSTATE BRANCHING

The Senator proposed that foreign banks be permitted to operate interstate branches whose deposit-taking powers would, however, be limited, as are those of Edge Act corporations, to international related transactions. Such limited powers would appear to equate the deposit-taking authority of foreign bank branches and agencies and Edge Act Corporations. That authority would be limited to accepting credit balances or deposits related to international business. We support such comparable treatment of the deposit-taking powers of foreign bank branches, agencies and Edge Act subsidiaries.

However, the foreign bank branches would not be limited by the International Banking Act as to their asset powers. State law generally permits foreign bank branches to perform any type of normal bank lending, including domestic and international related commercial lending, consumer lending, Federal funds sales etc. Foreign bank agencies have similar powers under state law, although they do not normally make consumer loans. These lending powers are substantially greater than those of Edge Act corporations, which are confined to international lending. Thus foreign bank branches and agencies might enjoy competitive advantages over American banks.

American banks doing business outside their home state must operate through Edge Act corporations restricted to international lending or through loan production offices. By acting interstate through the same vehicles as American banks, serviced from their home state. Foreign banks acting through interstate branches or agencies would be able to solicit, make and service domestic commercial loans locally. It is difficult to assess accurately how much of a competitive advantage this difference in treatment would in fact confer.

Equality of treatment would be assured if foreign banks were required in the future to operate interstate only through Edge Act corporations and loan production offices. By acting interstate through the same vehicles as American banks, regulation and competitive conditions would be kept on a parity.

Nevertheless, we agree that this proposal for permitting limited interstate branching for foreign banks accords more closely with the national treatment theme than the proposal contained in Section 5 of the House passed International Banking Act. Although we would prefer the Act to limit foreign banks' interstate activities to those permitted American banks, we do not object to the compromise which Senator Stevenson has suggested.

Sincerely yours,

ROBERT H. MUNDHEIM.

Senator MCINTYRE. Thank you.

With our previous suggestion, we will let Mr. Mundheim be excused in order so he can make another commitment in another part of the country and proceed now to hear from John Heimann, Comptroller of the Currency, and then George LeMaistre, and then question those two after the close of their testimony.

STATEMENT OF JOHN HEIMANN, COMPTROLLER OF THE CURRENCY

Mr. HEIMANN. Thank you very much, Senator.

In light of our written submission to the committee which I understand will be printed in full——

Senator MCINTYRE. Your entire statement will be printed in the record without objection.

Mr. HEIMANN. As to our previous two witnesses, I'd just as soon not repeat certain continuing themes and just touch on a very few highlights so we can answer the questions of the committee.

[Complete statement follows:]

NEWS RELEASE

Comptroller of the Currency
Administrator of National Banks

Washington, D. C. 20219 202-447-1798

For RELEASE

Date June 21, 1978

STATEMENT OF JOHN G. HEIMANN
COMPTROLLER OF THE CURRENCY
BEFORE THE FINANCIAL INSTITUTIONS SUBCOMMITTEE
OF THE COMMITTEE ON BANKING, HOUSING
AND URBAN AFFAIRS
U. S. SENATE
June 21, 1978

I appreciate this opportunity to appear before the Financial Institutions Subcommittee to present the views of the Office of the Comptroller of the Currency on legislation dealing with foreign banking activity in the United States.

The members of this Subcommittee are to be commended for their leadership in considering a bill which recognizes the growing interdependence of the world's major banking systems and institutions. Foreign banking in the United States has indeed grown rapidly--total assets of foreign banks in the U.S. have increased over two and one-half times since 1972, and total assets of American banks abroad have increased two and one-quarter times in the same period. Both phenomena simply reflect the remarkable internationalization of business and finance that has occurred since World War II.

30-563 O - 78 - 6

The banking sector has long been regarded by most countries as peculiarly sensitive and important to national interest. Despite this, international banking has proved to be a major force helping to tie together the diverse nations of the free world financially and economically. No financial or banking market can any longer be treated in isolation, and the banking authorities of the developed countries are increasingly working hand-in-hand to define their various responsibilities for the stability of the global banking system.

Large U.S. banks have been in the forefront of the spread of international banking. They have fostered competition and promoted productive investments in many parts of the world. They have, on the whole, been treated well.

Just as U.S. banks operating abroad have benefited the host countries in which they operate, so too can this country profit from an inflow of foreign capital, methods, innovations, personnel and competition. It is, moreover, logical to expect major foreign banks to come here, to participate in the world's greatest financial system and to respond to the internationalization of American banking.

Foreign banks in the U.S. have, in general, shown themselves to be good bankers here, mindful of our rules and regulations and diligent in conforming to our banking norms. They have added considerable depth to the interbank and foreign exchange markets. As always, there have been a few transgressors, but the price of a free market system is that all wrongdoers cannot be excluded in advance.

The task of the bank supervisory and regulatory authorities is to nip such miscreants in the bud through effective banking supervision and to cushion their untoward effects on the remainder of the banking system.

As this Subcommittee is aware, the U.S. has in the past few years attracted a large number of banks from abroad. As of March 1978, foreign banking operations in the U.S. numbered 268, a 158% increase from the 104 operations in the U.S. in 1972. The past two years have seen particularly rapid growth.

The majority of the increase in operations from 1972 to 1978 came from increased branches and agencies. The number of branches grew from 26 to 103, or 296%. The number of agencies grew from 50 to 122, or 144%. Additionally, in 1978 there were 38 foreign subsidiaries and 5 foreign investment companies in the U.S.

In dollar terms, foreign banks increased their affiliates' assets held in U.S. banking operations by 265%, to $66 billion, from 1972 to March 1978. (This excludes clearing house balances as these inaccurately inflate the amount of U.S. business a foreign facility is conducting.) Of these, $48 billion were in New York and $14 billion in California.

It is worth noting that the assets of European bank facilities in the U.S. have increased by as much as 517%, to $32 billion, since 1972. U.S. operations of Japanese and Canadian banks increased their assets 167% (to $23 billion) and 78% (to $6 billion), respectively. It is logical that the biggest investments should be made by banks from those countries whose corporations are presently expanding their operations in the United States, and in which U.S. multinational firms have been most active.

The great majority of foreign bank participation in the U.S. banking system has been through the de novo establishment of branches, agencies and subsidiaries. However, during the past few years a number of banks have chosen to enter through acquisition of existing U.S. banks. The largest such acquisition to date was that of the former Franklin National Bank of New York, a multi-billion dollar bank, by the European-American Bank. This year three proposed acquisitions of comparable size are under review by the regulatory authorities: Marine Midland Banks, Inc. ($12.1 billion) by the Hong Kong and Shanghai Banking Corporation, Union BanCorp ($4.7 billion) by Standard Chartered Bank, and the National Bank of North America ($3.8 billion) by National Westminster Bank. This would increase the participation of foreign interests to about $87 billion--which is still less than 50% of U.S. banks' assets abroad.

Of course, foreign acquisitions of U.S. banks do not represent a new phenomenon; indeed the experience of the New York and California banking authorities with foreign-owned banks has been a favorable one. Nevertheless the recent trend represents an acceleration of sufficient magnitude to warrant scrutiny.

Some of the present and prospective acquisitions may be motivated by perceptions of low market prices of bank stocks and an undervalued U.S. dollar. However, we believe that a stronger motivation is the foreign banks' belief in the fundamental stability of the U.S. economic and banking system and the pivotal role that dollar-based banking plays in the world economy today. Large acquisitions give rise to certain regulatory complexities and increase the need for international cooperation among regulatory authorities. This is one manifestation of the internationalization of business and finance throughout the free world in the past two decades.

The past six years' growth of foreign banking in the U.S. should be viewed in the context of the U.S. banking system here and abroad. While foreign banks presently control $66 billion, or 4.9% of foreign and domestic banking assets in the U.S. (and $87 billion or 6.5% if the 3 proposed acquisitions are included), 148 U.S. banks have foreign facilities in over a hundred foreign countries. One-hundred twenty U.S. member banks operate 730 branches abroad, while 35 U.S. banks have significant global subsidiary activities. The overseas branches of U.S. member banks have total assets, net of those held in affiliates, of over $200 billion and are primarily concentrated in the U.K., Continental Europe, Japan and Latin America. The majority of U.S. banking offices abroad are in the same countries whose banks are located in, or are seeking to enter, the United States.

The growth of cross-national banking has convinced me of two things.

First, the intelligent regulation of international banking must be supported by international coordination among the banking authorities.

Second, U.S. international banking has reached the point where an internally consistent system of federal oversight is essential.

Foreign banking in the U.S. is not only rapidly developing, but it is changing in size and nature such that it may now be regarded as a third banking system. Oversight of this phenomenon should, and indeed in the interests of a sound financial system must, be considered on a national basis rather than split up into discrete, geopolitical units. Such fragmentation does not correspond to the way the capital and banking markets work.

I would like to offer some suggestions regarding this bill--suggestions based on the principles of promoting a competitive, sound and equitable system of financial regulation; suggestions based on what I believe to be a somewhat unique set of experiences. As Superintendent of Banks for the State of New York, I had responsibility for the regulation of over 70% of the existing foreign bank assets in the United States. As Comptroller, as a member of the Board of the FDIC, and more recently as a member of the "Cooke Committee" of regulators from 10 industrial countries, I have a strong concern for this area. The recommendations of our Office are made in a spirit of objectivity and realism.

Before discussing the specific provisions of the bill, I should like to comment on the appropriate authority for regulation of foreign banks in the U.S. The point is that we must have federal oversight over those aspects of foreign banking activities that affect the national interest.

It is, of course, fundamental to our dual banking system that states have the right to charter and supervise banks which choose to fall under their jurisdiction. However, foreign banks in the

U.S. are not self-contained entities, but almost always part of a worldwide banking network with the ability to affect the U.S. and dollar banking systems, here and abroad, in a number of ways. To pretend that these banks' branches could be treated as independent U.S. banks would be naive; and to permit parochial conflicts to defeat the logical and reasonable need for a federal oversight function would be to gamble with the stability of the banking system. Without national consistency, no international coordination would be possible. Oversight by the appropriate federal regulatory agencies is essential to reach this goal.

Let me turn, now, to the specific provisions of H.R. 10899.

Federal Charters and Federal Branches for Foreign Banks

The policy of national treatment, or nondiscrimination against foreign banks, dictates that foreign banks should have the same right as domestic banks to seek federal licenses as well as state licenses. H.R. 10899 would permit the Comptroller of the Currency to charter federal branches and agencies of foreign banks, which would be regulated and supervised like national banks. We support this option for federal chartering as it is consistent with the basic principles of the dual banking system. Amendment of the National Bank Act to permit the Comptroller to waive the citizenship requirements for a minority of directors would also facilitate the process of providing a federal option for a foreign bank operating in the U.S.

The Comptroller's Office is particularly suited to assume a major role in the regulation of foreign banks in the United States because of its experience in the international banking field. At the present time, 100 national banks have 629 overseas branches with foreign assets of 162 billion dollars. The International Operations Division of the Office is devoted exclusively to examination and supervision of these international operations of national banks. Approximately 200 national bank examiners are trained in international examining. The Comptroller's Office has sent examiners with this expertise annually to more than 20 countries since 1967. We have an office in London out of which national bank examiners operate and monitor practices in the Eurocurrency market. The Comptroller's Office is, therefore, in an excellent position to assume this responsibility.

In regard to the chartering provisions of the bill, we recommend that foreign banks not be prohibited from chartering a federal branch in a state where it now has a state chartered branch. The prohibition in this bill against such dual chartering would restrict the newly-given chartering right. Domestic bank holding companies can have both state and federally chartered institutions in the same state, and foreign banking institutions should have similar privileges.

Federal Review and Foreign Bank Applications

The proposed legislation contains a section requiring special federal review of applications by foreign banks to establish facilities within the U.S. The Secretary of the Treasury would be required to issue guidelines establishing general criteria for the admission of foreign banks; federal and state bank supervisory authorities would be required to solicit the views of the Secretary of State, Secretary of the Treasury and the Federal Reserve Board, before acting on the applications; and foreign banks would be required to state specifically that they would comply with U.S. antidiscrimination laws which apply to American banks.

These requirements are inconsistent with the principle of national treatment. Domestic banks are not subject to such onerous requirements and they would seem to serve no useful purpose. In addition, such procedures could set a precedent for other types of foreign investment in the U.S. with unfortunate consequences for the free flow of trade and capital. Finally, these requirements would not provide any special protection to U.S. depositors and indeed are inconsistent with the treatment that our banks expect from their host countries abroad.

I recommend that this provision be deleted from the bill.

Reserves

The bill would extend reserve requirements of the Federal Reserve System to all branches and agencies of foreign banks with worldwide bank assets in excess of $1 billion. As almost all of the large American banks are subject to these reserve requirements, this provision would conform to parity of treatment of foreign and domestic banks. We agree that these foreign banks should be subject to reserve requirements of the Federal Reserve System.

Deposit Insurance

H.R. 10899 would require the Federal branches to obtain federal deposit insurance from the FDIC. State branches would be required to obtain FDIC deposit insurance in any state in which the deposits in a state bank would be required to be insured.

The deposit insurance provision of the bill as passed by the House conforms to a suggestion which our Office made last year. This provision provides equality of treatment between foreign and domestic banks. It has the salutary effect of protecting all citizens when they place their deposits with foreign controlled banks.

Recently, the New York Superintendent of Banks expressed concern about branches of foreign banks which advertise for retail deposits in New York, yet do not offer the small depositor the safety of deposit insurance. She endorsed this provision of the bill and I urge the Committee to enact this protection for our own citizens.

I turn now to two areas of particular importance. These are the interstate branching provisions and the restrictions on American securities affiliates of foreign banks. These provisions are especially sensitive since they involve two issues in domestic banking which are under review at this time by leaders in Congress and elsewhere. In the absence of specific abuses by foreign banks, some have questioned the need to legislate now in these areas for foreign banks.

Interstate Branches

H.R. 10899 would permit interstate operations through state-chartered foreign branches or agencies whenever the proposed branch or agency is approved by the bank regulator of a state in which the new branch or agency is to be opened. Interstate operations by state-chartered offices would be permitted whether or not state law permits interstate branching by domestic banks.

The bill also seems to provide for the same interstate activities of federally chartered branches and agencies. We assume that the intent of the bill as passed by the House is to continue the historic policy of the Congress of placing national and state banks on an equally competitive footing, and thus to permit competitive equality of treatment to federally chartered foreign bank branches. The language of Section 5, however, is not clear in this respect as a literal reading may require, in addition to federal approval, a separate and express state approval for federally chartered branches to be established.

We are attaching language which would amend Section 5 in this respect to permit federally chartered branches and agencies of foreign banks in those states where such state-chartered offices are permitted, if the Congress decides to adopt the approach of H.R. 10899 for the interstate branching issue.

We are disturbed, however, by the illogic of foreign banks having powers in the U.S. which our own banks do not have. I have previously stated that the relatively modest assets of foreign banking operations in the U.S. make this issue somewhat of a red herring. I do think, however, that the trend to greater foreign penetration of banking in the U.S., recently accelerated by the large proposed acquisitions I have mentioned, makes the issue more significant--and highlights the structural inequity of interstate branching by foreign banks.

The central problem, of course, arises from the McFadden Act which restricts branching for national banks and which is the product of another era in the economic and political history of this country. Clearly, domestic branching restrictions require reevaluation. We feel that an objective analysis could show that this archaic restriction frustrates the free flow of capital and, perhaps, even affects the economic growth of our nation.

Pending such a review of our branching structure, however, there is a strong argument that the increasingly important foreign banks operating in the U.S. should play by our rules--even if the rules are not thoroughly satisfactory. Thus, the Committee should consider changing Section 5 of H.R. 10899 to permit the establishment of new branches and agencies of foreign banks only to the extent permitted domestic banks, with all present offices grandfathered to prevent undue hardship and avoid possible retaliation by foreign governments against American banks operating abroad.

Securities Affiliates

As we have urged in previous statements on this bill, securities affiliates of foreign banks are permanently grandfathered in H.R. 10899.

This provision should remain as it is in the bill before this Committee. Permanent grandfathering of existing securities affiliates should not present a problem. As of year-end 1976, only 19 foreign bank affiliated securities companies operated in the U.S. on the principal and regional exchanges. Only four are members of the NYSE. The total assets of these companies total $391 million.

Conclusion

I appreciate this opportunity to present the views of my Office on the fair and effective regulation of foreign banking in the United States. The continuing integration of the domestic and international banking system is a healthy trend. This country can profit from the investments of foreign banks just as host countries around the world, and the U.S. itself, have benefited from the internationalization of American banks. The interests of the U.S. depositing and borrowing public can be made consistent with the principles of regulatory equality and reciprocity only by a selective allocation of regulatory responsibility to the appropriate federal authorities.

ATTACHMENT TO STATEMENT OF
JOHN G. HEIMANN, COMPTROLLER OF THE CURRENCY
ON H.R. 10899
JUNE 21, 1978

Proposed Amendment to Section 4, "Federal Branches and Agencies"

Delete paragraph (1) of section 4(a) and delete "(2)". New section 4(a) should read as follows:

> Except as provided in section 5, a foreign bank which engages directly in a banking business outside the United States may, with the approval of the Comptroller, establish a Federal branch or agency in any State in which the establishment of a branch or agency, as the case may be, by a foreign bank is not prohibited by State law.

Proposed Amendment to Section 5, "Interstate Banking Operations"

Delete paragraph (2) of section 5(a) and insert the following new paragraph (2):

> (2) in the case of a Federal branch or agency, (A) the regulatory authority of the State in which the Federal branch or agency is to be operated previously has approved such operations by one or more State branches, agencies or commercial lending companies, or (B) its establishment and operation are expressly authorized to State branches or agencies by the law of the State in which it is to be operated.

Mr. HEIMANN. Very simply, I'd like to start out by noting that foreign banks operating in the United States have indeed been good citizens. They have abided by our rules and regulations. As you know, I was superintendent of banks in the State of New York and had a major responsibility for foreign banking in the United States. My very marvelous and thoughtful successor is here today to be a witness later on.

I think it's fair to say that foreign banks have been good banking citizens in this country. Second, I think the point should be made that what we are witnessing is a growing realization that the capital markets of the world are indeed interrelated. As foreign banks have increased their activities in the United States, so have U.S. banks increased their activities in foreign nations; the capital marketplace of the world does not view geopolitical boundaries. The markets create their own boundaries and these institutions are indeed functioning competitively and productively in this total global market.

I have two basic observations with respect to this trend that might be categorized as follows: First, there should be intelligent regulation of international banking and this intelligent regulation must be supported by the international coordination and cooperation among the banking regulators of the world. Second, foreign banking in the United States has clearly reached the point where an internally consistent system of Federal oversight is essential. That I think is the most critical and important factor in terms of our support of this legislation on a general basis.

Rather than going into all of the various provisions in the bill which we have outlined in our testimony and which you may or may not wish to discuss later, I would like to touch on one or two of the basic problems.

One has to do with mandatory FDIC membership. As you know, the Comptroller by statute sits on the Board of the FDIC and we don't always agree on everything. I would like to very briefly touch on the reasons for our support of mandatory FDIC coverage.

The American concept of deposit coverage and protection was to protect those who were innocent, if you will, in terms of the possible failure of an individual institution and whose savings would be at stake and possibly at hazard through no fault of their own. That concept I believe is a valid one and has worked remarkably well in this country. It only truly works if it's understood to be available to all of us—the depositors, without requiring depositors to make distinctions between institutions that have insurance and those that don't have insurance.

It seems to me that in the amounts of insurance designed originally to protect the smaller saver in this country, it is valid to have mandatory insurance for all depositors in the system. Although there are technical problems, they can be handled I believe by the FDIC.

The second area that has consumed a great deal of attention, of course, is the question about interstate branches. It seems we are caught on two conflicting principles. One is the principle of the existing law and how it treats our own domestic institutions, the McFadden Act, and the other is the principle of open and free competition throughout our society.

As you know, sir, I am on the side of open and free competition and basically believe that the time has come for a rethinking and reevaluation of the principles of the McFadden Act—reevaluation by the Congress, of course. In the meantime, since what we are seeking to achieve is a relative parity or equity throughout the system, not only with respect to branching but also with respect to reserve requirements and FDIC insurance and the like, it would only be equitable and fair to thus restrict our foreign banking friends to the same basic ground rules as domestic banks.

I would like to make it perfectly clear that the Comptroller's office would very much like to see a thoughtful congressional discussion and debate on this principle since we believe that to some degree this act is antiquated, and may disrupt the free flow of capital and affect the economic growth of our Nation. It deserves to be rethought after 40-odd years. Thank you very much.

Senator McIntyre. Mr. LeMaistre.

STATEMENT OF GEORGE A. LeMAISTRE, CHAIRMAN, FEDERAL DEPOSIT INSURANCE CORPORATION

Mr. LeMaistre. Thank you, Mr. Chairman. I, too, would like to have my statement filed.

Senator McIntyre. Your complete statement will appear in the record in its entirety without objection.

[Complete statement follows:]

FDIC
FEDERAL DEPOSIT INSURANCE CORPORATION

NEWS RELEASE

FOR RELEASE UPON DELIVERY PR-64-78 (6-21-78)

Statement on

H. R. 10899, 95th Congress, the "International Banking Act of 1978."

Presented to

Subcommittee on Financial Institutions
Committee on Banking, Housing and Urban Affairs
United States Senate

by

George A. LeMaistre
Chairman, Federal Deposit Insurance Corporation

June 21, 1978

30-563 O - 78 - 7

Mr. Chairman, I welcome the opportunity to testify on issues raised in H. R. 10899, the International Banking Act of 1978.

The efforts of the Congress in this area have been timely and appropriate in light of the rapidly growing presence of the operations of foreign banks in the United States. According to statistics provided by the Federal Reserve, from November 1972 to the end of March 1978 the number of U. S. banking institutions owned by foreign banks increased from 104 to 268 and their total U. S. assets quadrupled from $24 billion to $96 billion. Since 1965, there has been more than a twelvefold increase in their assets.

Foreign banks presently operate in the United States through agencies, direct branches, subsidiaries, securities affiliates and commercial lending companies. Currently, these foreign banking organizations are located in ten States plus Puerto Rico and the Virgin Islands. However, 91 percent of all foreign banking offices in the U. S. are concentrated in New York, California and Illinois.

Until quite recently agencies have been the dominant form of foreign banking in the U. S. As of March 31, 1978, 120 agencies with approximately $30 billion in assets were operating in New York, California, Georgia, Florida, and Hawaii. Agencies operate under State licenses and are not permitted to hold deposits but their customers may maintain credit balances which are technically due to the account of the home office.

Direct branches are the most rapidly growing form of foreign banking in the United States. There were 103 branches with assets totalling $45 billion in New York, Illinois, Washington, Oregon, Massachusetts, Puerto Rico and the Virgin Islands on March 31, 1978. Branches are licensed under State law and are permitted to hold both foreign and domestic deposits. These deposits are currently not eligible for Federal deposit insurance.

At the end of March 1978, foreign banks owned 38 State-chartered subsidiaries in New York, California, Illinois and Puerto Rico, with assets of $19 billion. Such subsidiaries may become members of the Federal Reserve System. Five have chosen to do so. Also, foreign banks may apply for national charters for bank subsidiaries; however, the requirement that all national bank directors be U. S. citizens has made this unattractive. Bank subsidiaries of foreign banks are subject to the Bank Holding Company Act of 1956, and must maintain FDIC insurance coverage. Recently, three foreign banking organizations have begun negotiations to acquire all or a substantial portion of the control of three sizeable U. S. banking institutions, the combined assets of which exceed $20 billion.

Five commercial lending companies with $2 billion in assets were licensed to operate in New York. In addition to having a wide range of conventional banking powers, these entities may engage in some investment banking.

Finally, a total of 27 securities affiliates were licensed to operate in the U. S. as of December 31, 1976. These firms are engaged in underwriting and direct sale of securities, activities that are prohibited for domestic banks by the Glass-Steagall Act. Most of these affiliates are located in New York State.

If a foreign bank chooses to operate in this country through a domestically incorporated banking subsidiary, its operations here are generally subject to the same rules under the Bank Holding Company Act that govern the U. S. activities of domestic bank holding companies, with limited exceptions involving nonbanking activities permitted by Federal Reserve regulations issued under Section 4(c)(9) of that Act. However, to the extent that a foreign bank operates domestically through branches, agencies, or commercial lending companies, it is not subject to certain restrictions and requirements applicable to domestic banking organizations -- principally those which forbid operating deposit-taking offices in more than one State and operating affiliated companies engaged in a securities business.

The stated goals of this legislation are twofold: The first is to provide a system of Federal regulation of the domestic activities of foreign banks because of the role these institutions play in domestic financial markets, their impact on the domestic and foreign commerce of the United States and because most foreign banks operate in more than one State. The second goal is national treatment of foreign banks. In other words, to the extent possible or appropriate, foreign and domestic banks operating within the United States should be treated equally.

It seems to me that as a general principle, the goal of "national treatment" or "nondiscrimination" in the regulation of foreign enterprises operating in the United States is highly desirable and should be pursued provided that its implementation is feasible and adherence to it would not interfere with some other important public policy objective. Thus, I am in agreement with the notion that, consistent with our framework of bank supervision, U. S. operations of foreign banks should be subject to appropriate Federal regulation and supervision.

While we support some provisions of the proposed legislation, we have reservations about certain aspects of the bill as drafted and I will set forth our views as to preferable policy choices. In some respects, for example, it seems that the bill deviates from the policy of nondiscrimination without an overriding reason for doing so. In the discussion which follows, I shall outline the FDIC's views with respect to five of the major facets of this legislation.

Provision of a Federal Chartering Option

Section 4 of the bill would authorize the Comptroller to approve the establishment by a foreign bank of its first U. S.

branch or agency in any State where State law does not prohibit the establishment of a branch or agency by a foreign bank. Subsequent Federal branches or agencies of a foreign bank could be authorized in States where the bank had no State branch or agency if expressly permitted by State law. These Federal branches and agencies would be regulated and supervised like national banks to the extent appropriate. In addition, Sections 2 and 3 of the bill would significantly liberalize the National Bank Act and Edge Act requirements that National Bank and Edge Act corporation directors be U. S. citizens and that Edge Corporation stock be owned only by U. S. nationals. Consistent with the principle of nondiscrimination, these provisions would afford foreign institutions the benefits of choice implicit in our dual system. I heartily endorse these changes.

Interstate Banking Operations by Foreign Banks

Section 5(a) of the bill permits interstate branching by foreign banks where permitted by State law. This subsection further provides that establishment of agency or commercial lending company operations outside the home State selected by a foreign bank requires the approval of the State in which it desires to operate.

The thrust of these provisions is, of course, to maintain the status quo with respect to interstate branching by foreign banks rather than to impose branching restrictions of the type applicable to domestic banks. It has been argued by some that foreign banks enjoy a competitive advantage in that they can conduct multi-State deposit banking operations. Frankly, I am not aware of any evidence that interstate banking activity of foreign banks has had an adverse competitive impact on our domestic banks or has impaired their viability.

It should also be noted that foreign banks currently operate banking-type operations in only twelve U. S. States and territories while interstate operations of our large bank holding companies extend into almost every State. These interstate activities include consumer and sales finance, commercial lending, mortgage banking, selling and reinsuring credit related insurance, leasing, computer services and providing venture capital to business. U. S. banks may also establish Edge Act corporations, loan production offices and representative offices in States other than their home State.

Absent some overriding public interest, notions of equity and symmetry would support applying to foreign banks the same branching rules as apply to domestic banks. However, in our judgment there is an overriding public interest which leads us to strenuously oppose application of the principle of national treatment in this context.

If interstate banking operations were to be prohibited for foreign banks, it is unlikely that a foreign bank would want to locate anyplace outside New York, California or Illinois.

As a practical matter, if interstate banking opportunities were foreclosed for foreign banks, other States would find it difficult to attract foreign banks and, hence, would not reap benefits stemming from the activities of these banks -- benefits that may well accrue to the local economy.

One should not minimize the value of foreign banking growth to the banking community as a whole. In an interview published in the June 1977 issue of Euromoney, Paul Volcker, President of the Federal Reserve Bank of New York, stated that --

> Bankers in general -- those of the New York mentality anyway -- hold that additional competition generates additional business. To the extent that it supports the growth of New York as an international banking centre it's going to be good for everybody. More of the world's business will be focused here, and the more effective and efficient this market is, we'll all be able to make some money out of it. Better here than elsewhere.

I see no reasons why other cities in other States should not enjoy the same potential benefits of expanded foreign banking activity. I feel strongly that a State should be permitted to invite a branch of a foreign bank into its banking communities if this is the only realistic way in which foreign bank entry is likely to take place.

Recent patterns of foreign banking expansion in the U. S. support the contention that regional financial centers would be hurt by a ban on interstate operations by foreign banks. Of the 268 foreign agencies, branches, subsidiaries, and commercial lending companies operating in the U. S. as of March 31, 1978, only 25, or nine percent, were located outside the money market centers of New York, Chicago, Los Angeles and San Francisco. These 25 offices are located in Massachusetts, the Virgin Islands, Puerto Rico, Florida, Georgia, Texas, Hawaii, Oregon and Vashington. Seventeen of the 25 offices located outside the four principal money market centers are direct branches of foreign banks and six are agencies. This suggests that branches and agencies are the major hope for increased foreign banking involvement outside these centers. Moreover, as indicated in the table, direct branches have been the fastest growing organizational form of foreign banking in the United States, both in number and total assets.

TABLE

Growth in Number of Offices and Size of Foreign Banking Operations in the United States

	March 1978		November 1972	
	Total Assets (billions)	Number	Total Assets (billions)	Number
All foreign institutions	$96	268	$24.3	104
Agencies and agreement corporations	30	122	13.6	50
Branches	45	103	5.3	26
Subsidiaries	19	38	4.1	25
Commercial lending companies	2	5	1.3	3

The 25 foreign institutions outside the banking centers are operated by foreign banking organizations that are part of

14 foreign banking "families" that also have foreign banking offices in the States of New York, California or Illinois. This implies that the tendency is to geographically diversify foreign banking operations once banking operations have already been established in the principal centers. We believe this multi-State diversification should be permitted to continue. We therefore strongly support the provisions of Section 5(a) as passed by the House.

Nonbanking Activities of Foreign Banks

Section 8 of H. R. 10899 subjects foreign banks' domestic agencies, branches, commercial lending companies and their affiliates to the provisions of the Bank Holding Company Act of 1956 as amended in 1970. However, domestic nonbanking activities (including securities activities) which were commenced or acquired prior to May 23, 1977 are grandfathered permanently. Those acquired after that date and which are prohibited for domestically-owned bank holding companies must be divested by December 31, 1985.

Under an earlier version of the bill, different rules would have applied to the securities activities of foreign banks. Divestiture by December 31, 1985 would have been required of all securities activities whether commenced after the grandfather date or not, except that foreign banks' securities affiliates could have continued to engage in securities transactions for individuals and organizations outside U. S. jurisdiction.

During the House consideration of this bill, it was argued that these earlier restrictions on securities activities were both discriminatory and anticompetitive. It was felt that they were unfair to foreign banks, since large U. S. banks engage in substantial securities activities abroad. Moreover, it was feared that such restrictions would prompt retaliation against those U. S. banks which do engage in extensive foreign securities operations. Also, it was argued that by lessening competition in the U. S., the cost of underwriting might be increased and the issuing of new securities made more difficult. Regional stock exchanges felt that they would suffer substantial revenue losses.

I believe it is fairer and less disruptive to grandfather all existing securities operations of foreign banks as the bill presently does. This minimizes any likelihood of retaliation and eliminates the hardship of winding down operations on those institutions which have played by the rules of the game to date. Although this approach may be at odds with the concept of national treatment, the practical effect would be minimal given the limited scope of existing foreign bank securities operations.

Accordingly, I strongly favor the permanent grandfathering of all existing securities activities of foreign banks now contained in Section 8.

Deposit Insurance Coverage

As the FDIC has indicated in previous statements, we have had serious reservations about the necessity and desirability of making deposit insurance coverage available for domestic branches of foreign banks. These reservations arise from a concern that insufficient legal and regulatory controls could be placed on branch operations that are not legally separate from those of the parent bank. At least five problems are involved:

1. Directors of the foreign bank are not usually subject to U. S. jurisdiction, and domestic branch personnel essential to explain certain transactions can be transferred beyond the reach of U. S. authorities. Also, essential records may be difficult to reach if they are kept at the head office or at branches in other countries.
2. The domestic branch may be subjected to requirements under foreign law or to political and economic decisions of a foreign government which conflict with domestic bank regulatory policies.
3. Administrative enforcement proceedings initiated by domestic regulatory authorities against domestic branch personnel may be frustrated or nullified as a result of lack of jurisdiction over the foreign bank's head office and head office personnel.
4. Many foreign banks are permitted under the law of their headquarter's country to engage in business activities abroad which would not be permitted to banks chartered in this country.

Such foreign activities could give rise to antitrust, conflict of interest, and other legal problems under U. S. law.

5. In the event of insolvency of a foreign bank, it is possible that:

   -- assets could be easily and quickly shifted from the U. S. branch and out of U. S. jurisdiction, while deposits could be shifted to the U. S. branch;

   -- legal obstacles and transactions involving other offices of the foreign bank might prevent FDIC from obtaining the usual subrogation of claims it normally gets from depositors in failed U. S. banks before making payment. Even if adequately subrogated, FDIC's aggregate claim in the failed bank's receivership estate might be jeopardized by foreign laws and procedures;

   -- creditors with claims against other offices of the failed bank -- especially banks holding deposits of the U. S. branch -- could attempt offsets against assets in the U. S. or seek preference based on foreign law.

In addition, deposit insurance protection is largely unnecessary insofar as foreign banks' domestic branches engage in "wholesale" international banking activities. Moreover, if foreign banks wish to expand their operations in this country into the "retail" banking business with the benefit of Federal deposit insurance, they presently have an option to do so under existing law through a domestically incorporated banking subsidiary in those States in which State law permits. Of course, in that event most of the problems outlined above are less important.

Notwithstanding our concerns, a number of interested parties, including the Federal Reserve System, have strongly argued that some form of deposit insurance coverage should be available to the U. S. branches of foreign banks. Accordingly, an earlier version of the bill contained a surety bond or pledge of assets method of providing protection similar to, but _in lieu of_, deposit insurance coverage. In our opinion this solution was less than satisfactory for a number of reasons.

While some of the risks listed above could be mitigated by imposing various conditions and restrictions upon the foreign bank, the value of such requirements depends ultimately upon the ability to physically enforce such requirements by exercising _quasi in rem_ jurisdiction over the foreign bank's domestic assets and/or obligors. Short of a dollar-for-dollar pledge of assets to back up 100 percent of the branch's domestic deposits, efforts to impose such requirements as a _substitute_ for deposit insurance could turn out to be of limited value.

In response to the view that some form of deposit insurance coverage is necessary, the FDIC recommended a _modified_ version of the surety bond and pledge of assets approach which would be coupled with the granting of regular deposit insurance for the domestic deposits of U. S. branches of foreign banks. We recommended that such deposit insurance could be made available on an optional basis along the following lines:

> SEC. 6(a) Any branch may become an insured bank under the Federal Deposit Insurance Act (12 U.S.C. 1811-31b) with respect to its domestic deposits, as defined by regulation by the Board of Directors of the Federal Deposit Insurance Corporation, as if such branch were a State nonmember bank. Upon so becoming an insured bank, a Federal branch shall thereafter be treated as if it were a national member bank, and any other branch shall thereafter be treated as if it were a State member bank, for purposes of applying the Federal Deposit Insurance Act to such branch's domestic activities (except that any such branch shall continue to be treated as a State nonmember bank for purposes of the first sentence of Section 8(a) of that Act providing for voluntary termination of insured bank status). Any branch which becomes an insured bank shall maintain with the Federal Deposit Insurance Corporation, or as the Corporation may otherwise direct, a surety bond or a pledge of assets in such amount and subject to such conditions and rules as the Corporation may prescribe for the purpose of providing some additional protection to the deposit insurance fund against the additional risks entailed in insuring the domestic deposits of a foreign bank whose activities, assets and personnel are in large part outside the jurisdiction of the United States. In prescribing such rules, however, the Corporation shall, to the maximum extent it considers appropriate, endeavor to avoid imposing requirements on such branches which would place them at an undue competitive disadvantage vis-a-vis domestically incorporated banks with which they compete.
>
> (b) Paragraph (a) of this section shall take effect 180 days after enactment hereof. Within 90 days after enactment and as may be appropriate thereafter, the Corporation shall submit to the Congress its recommendations for amending the Federal Deposit Insurance Act so as to enable the Corporation to implement the provisions of this section in a manner fully consistent with the purposes of that Act.

If foreign banks' domestic branches chose deposit insurance coverage under such a provision, they would become subject to a much less onerous form of surety bond and pledge of assets requirement, which would be designed not to be a substitute for deposit insurance but rather merely to give the Federal deposit insurance fund a measure of protection to compensate for the additional risks to which it would be subjected, as described above, by virtue of providing regular deposit insurance for the domestic deposits of an entity operating for the most part outside of U. S. jurisdiction. Domestic depositors would be fully protected up to $40,000 just as are depositors in domestic insured banks. This approach of providing regular deposit insurance on an optional basis in conjunction with a modified form of the surety bond and pledge of assets requirement seems preferable from the Corporation's standpoint to the mandatory coverage required in Section 6 of H. R. 10899. It would put foreign banks on as nearly an equal basis as possible with domestic banks while at the same time affording appropriate supplemental protection to the deposit insurance fund roughly commensurate with the added degree of risk included in insuring foreign entities.

It will be noted that the provision suggested above would give the FDIC authority to define "domestic deposits" for purposes thereof. It is contemplated that that term would be defined to include deposits of individuals who are citizens or residents of the United States and companies having an appropriate business nexus with this country. It is likely also that such "domestic deposits" would be required to be payable only in the United States, and a requirement might be included that the deposit contract provide that U. S. law govern the depository relationship. Other criteria might also have to be considered from time to time in determining what would be an appropriate insurable "domestic deposit." We would greatly prefer the more flexible approach of defining this term by regulation rather than attempting to do so by statute.

We support optional deposit insurance for foreign banks' U. S. branches because we believe it is preferable to accord such branches, insofar as possible, the same options afforded domestic banks under Federal law. Comparable treatment as to deposit insurance would require permitting foreign banks to operate State-licensed branches in the U. S. without obtaining deposit insurance if such is permitted by State law. Also, from the standpoint of State governments, we believe each State should have the option of permitting foreign banks to operate branches in such State without Federal deposit insurance, subject to such limitations and requirements as State law may provide.

At present, for example, New York is among those States which permit foreign banks to establish domestic branches without obtaining Federal deposit insurance, although such branches are subject to various requirements under State law designed to

30-563 O - 78 - 8

protect depositors and creditors of such branches. Indeed, there has been no case to our knowledge where any loss has been suffered by depositors or creditors of a U. S. branch of a foreign bank because of the foreign bank's insolvency. Even as to the failure of Intra Bank in October 1966, it is our understanding that all depositors and creditors of Intra Bank's New York branch were paid within three years after the branch was closed. Subsequent to the Intra Bank failure, New York law was amended to give added protection to depositors and creditors of branches of foreign banks operating in New York.

While we have no strong objection to requiring Federal deposit insurance for Federal branches of foreign banks licensed by the Comptroller of the Currency in conjunction with a surety bond/pledge of assets requirement of the type contained in Section 6, we believe that Federal law should not mandate deposit insurance for State-licensed branches of foreign banks. Rather, we believe any requirement that State-licensed branches be federally insured should be left to State law. As you know, California presently imposes such a requirement if such a branch accepts domestic deposits.

One alternative the Congress might want to consider is to require uninsured branches to make that fact known to depositors. This would, of course, be a departure from national treatment since there is no such requirement for domestically chartered banks which do not have deposit insurance.

Such an approach would nevertheless be a possible alternative to mandatory deposit insurance for foreign banks' U. S. branches.

While we would prefer to see Section 6(a) and (b) of the bill modified to make deposit insurance available to domestic branches of foreign banks on an optional rather than a mandatory basis, we have no objection to the lengthy technical revisions in Section 6(c). We have reviewed these provisions at the staff level and worked with House Subcommittee staff in trying to perfect them from the technical standpoint.

If your Subcommittee should not be inclined to take the optional approach to deposit insurance for domestic branches of foreign banks, we would strongly recommend that, at a minimum, language be added to Section 6 which would give the FDIC authority to waive the requirement for FDIC coverage if it determines that the domestic depositors of a foreign bank's U. S. branch would be covered by a foreign deposit insurance or guarantee program, or by an undertaking or agreement of a foreign governmental entity, which in the FDIC's opinion gives protection to U. S. depositors of at least similar quality and extent as would FDIC coverage. If your Subcommittee should so desire, we would be happy to work with you in developing statutory language appropriate for this purpose.

Imposition of Reserve Requirements and Interest Rate Controls

Section 7(a) of H. R. 10899 subjects all branches, agencies and commercial lending companies controlled by foreign banks whose worldwide assets exceed one billion dollars to the reserve requirements and deposit interest rate controls imposed by the Federal Reserve on member banks. Section 7(b) permits the Federal Reserve Board to prescribe rules and regulations governing the access of foreign branches, agencies and commercial lending companies to the clearing, discount and advance facilities of the Federal Reserve System.

While the bill does not require foreign institutions to become members of the Federal Reserve System, these two provisions of Section 7, along with the remaining provisions in the Section, impose upon foreign branches, agencies and commercial lending companies the obligations and benefits of Federal Reserve membership. For all practical purposes, this bill, in effect, requires Federal Reserve membership, even though it is not stated as such.

In my June 20, 1977 testimony before your Subcommittee, I indicated that, although I have an open mind with respect to the question of universal reserve requirements, I do not believe that the issue of reserve requirements for nonmember institutions should be dealt with on a piecemeal basis. Rather, it seems to me that the relationship to the Federal Reserve System of all banking institutions which choose not to join the Federal Reserve System should be studied in a systematic and unified fashion. Such a study is, it seems to me, the most effective way to respond to the Federal Reserve's concern with membership attrition. Applying this to the reserve requirement proposals contained in H. R. 10899 would dictate that the relationship of foreign banks, which choose to operate in the United States in one form or another, to the Federal Reserve System should be dealt with in the context of a broader solution to the question of membership.

The approach I suggest is, of course, consistent with the principle of national treatment or "nondiscrimination." And, conversely, to require, in effect, Federal Reserve membership for only those domestic affiliates of foreign banks having total assets of more than one billion dollars would represent a deviation from that principle.

Yet, I recognize full well that the priniciple of national treatment cannot be viewed as an absolute. As I indicated at the outset, that concept should certainly give way before overriding public policy considerations which arise out of special circumstances. In this regard, the Federal Reserve has argued rather strenuously that the operations of relatively large foreign banking institutions pose just such a case and this mandates a departure from the principle of national treatment.

The Federal Reserve has pointed out that from a monetary control standpoint, the operating characteristics of branches and agencies of foreign banks are noteworthy because these institutions generate a substantial portion of their funds from overseas sources, primarily from the parent or directly related institutions. These funds are not subject to Federal Reserve Regulations D or M. The Federal Reserve fears that this may result in a cost advantage for large foreign institutions vis-a-vis their large U. S. competitors who are members of the Federal Reserve System. More importantly, it is feared that lack of such direct Federal Reserve controls over reserves could impede the effective implementation of monetary policy in the face of massive and precipitous transfers of funds.

Although both these factors represent real concerns, at least two factors suggest that these problems are not sufficiently serious at this time to override the principle of national treatment in this area. It is true that foreign banking activity in the U. S. has grown considerably in recent years; yet its scale remains relatively small. The assets of all foreign banking entities, including State-chartered banking subsidiaries, are less than eight percent of total commercial bank assets as of December 31, 1977. Moreover, the Federal Reserve has stated in previous testimony that foreign banking institutions in the U. S. generally have complied with a Federal Reserve Board request to maintain reserves on increases in net liabilities from abroad which parallel requirements under Regulations D and M.

Although the operations of foreign banks could conceivably pose unique problems for the central banker, we do not believe that these potential problems are yet of sufficient magnitude to pose a real risk to the stability of our economy. At the same time, I recognize fully that the question of whether to depart from the principle of "nondiscrimination" on the matter of reserve requirements is a knotty issue on which reasonable men may differ.

With respect to the matter of deposit interest rate controls, we fully support the notion that foreign branches, agencies, and commercial lending companies should be subjected to such controls. As drafted the legislation would, however, vest all such authority in the hands of the Federal Reserve System. Such an approach is appropriate if the Congress chooses, in effect, to require mandatory membership in the Federal Reserve System. However, if the Congress chooses to maintain the option of nonmembership, then administration of such controls vis-a-vis nonmember foreign banking institutions should be vested in the FDIC as it is presently with respect to nonmember domestic institutions.

Mr. LeMaistre. We are in general support of the bill as it came out of the House. We have certain reservations about some sections which I'd like to touch briefly. Specifically, there are five facets of the bill I would like to review.

The first one is section 4, which would give the foreign banking institutions the benefits of the dual banking system, allow them to establish a Federal branch under the authority of the Comptroller, and also would liberalize the requirement that national bank and Edge Act corporation directors be U.S. citizens; and section 5(a), which permits interstate branching by foreign banks where permitted by State law, is one we would support. We think that the State ought to have the right to say what the privileges of branches seeking to come into that area should be, and we strongly support the provisions of section 5(a) as it passed the House. As you know, it was amended on the floor of the House and it was not in the form that it came out of the committee.

Section 8 of the bill would subject foreign banks' domestic branches, agencies, commercial lending companies and their affiliates to the provisions of the Bank Holding Company Act. We support the theory expressed in the bill that these activities currently engaged in by these institutions ought to be permanently grandfathered, particularly the established securities activities of foreign banks.

While the bill doesn't require foreign institutions to become members of the Federal Reserve System, there are two provisions in section 7 which apply to banks of $1 billion or more in worldwide assets—the imposition of reverse requirements and interest rate controls by the Federal Reserve, and section 7(b), which permits the Federal Reserve Board to prescribe rules and regulations governing the access of branches, agencies, and lending companies of foreign banks to the clearing, discount, and advance facilities of the Federal Reserve System. As I say, this doesn't mandate that they be members, but in effect in does say when they come in if they are over $1 billion in assets they are, for all practical purposes, members of the Federal Reserve System.

We don't require that of domestic banks. If there is a national policy of treating foreign banks in an evenhanded way, they should be treated exactly as American banks, and we should give them the same privilege to belong or not belong to the Federal Reserve as they see fit. It also seems to me that the Congress really needs to make a future study of the need for universal Federal Reserve membership. I don't think that's been done yet. I think it's been mentioned in a number of bills, and each time we have testified we have pointed out that it ought to be a subject of a comprehensive study to see what the effects are. For the purposes of this bill, I would say that, consistent with the principles of nondiscrimination, it seems to me we ought not to require Federal Reserve membership only for those domestic affiliates that have more than $1 billion in assets. It seems to me if it's required for one group of banks it ought to be for all of them; but my inclination is to say that we ought not to mandate membership until we have a complete study of it.

Now the other point which I'd like to refer to has to do with the deposit insurance factor, and, as you know, we have expressed in the past some serious reservations about the need for making deposit insurance coverage available for domestic branches of foreign banks. The reservation we have arises from the fact that there is some difficulty in obtaining the necessary authority and controls over the parent and necessary information as to its worldwide activities that might be helpful in our operations as an insurer. I have set those difficulties out rather extensively in the statement that's been filed. I also would point out that most of the operations of these branches of foreign banks are wholesale in nature. They are not retail bankers. If they want to go into the retail business they can presently go into the business by either incorporating or purchasing a domestic banking subsidiary. That method of getting into the business of retail banking brings them under the Federal Deposit Insurance Corporation protection.

But we did suggest that there would be a way that we thought we could live with the deposit insurance coverage requirement and that we felt that perhaps as provided in the bill some surety undertaking or some pledging in addition to the insurance would be necessary to protect against the risk involved in dealing with foreign institutions. To completely protect depositors in an uninsured branch of a foreign bank you would have to provide for 100-percent coverage by pledging or surety, and that's obviously too expensive for any bank to undertake. So we have suggested that some limited type of surety or pledge of assets requirement in addition to regular deposit insurance coverage would be acceptable, and that is included in the bill as it passed the House.

Again, I'd like to point out, though, that if you're going to give comparable treatment to foreign banks as compared to what we do with domestic banks, we do not require all domestic banks to have deposit insurance. If State banks want to operate without insurance and the State permits them to do so, there is no requirement that they be so insured. I would strongly recommend that they be insured, but they don't have to be, and I think that any requirement that State-licensed branches be federally insured ought to be left to the State law, the State which issues the license, in order to say whether they want that institution to be federally insured.

At the least, though, if the committee does not take the optional approach which I suggest, I would suggest rather strongly that we be given at a minimum the authority to waive the requirement for FDIC coverage if the FDIC determines that the domestic depositors of foreign banks would be covered by a foreign insurance program; and there are quite a few countries which are embarking or have embarked on this type of program, and if we found there was adequate protection it seems to me we ought to be allowed to waive the requirement so that the added expense could be taken off the back of the branching bank.

If that is an attractive proposal, then obviously we would be happy to try to work out the language with your staff providing for such a waiver. Actually, there are 8 or 10 countries in which insurance is either in place or being contemplated. I'm not saying that many of them insure deposits in foreign branches of their banks. I'm not sure how many of them do cover it, but we could find out.

Thank you.

Senator McIntyre. Thank you.

Mr. Heimann, with regard to the option for the establishment of Federal branches and agencies under this bill, what interest would there be for a foreign bank to establish a federally chartered office as opposed to a State-chartered office?

Mr. Heimann. Well, again I think, Senator, that goes back to the principle of the dual banking system. Any institution in this country—commercial banking institution—may decide which charter it chooses to operate under, the State charter or the national charter. Clearly, it would seem to me proper and fair to provide a foreign bank that same choice in the sense of parity and equity with our own commercial banking system. Mark you, that would be the choice of the individual institution and not mandated on them.

May I add something to that, if I may, Senator? If one assumes that the foreign bank has the choice between a Federal charter and State charter——

Senator McIntyre. Under this bill he would.

Mr. Heimann. Under this bill. Over a period of time there would be a number of foreign banking institutions that may be regulated by the Comptroller's Office, and there would, of course, continue to be, I would assume, a substantial number regulated by the State commissioners and superintendents of banks. If I may, going back to my statement: What I consider to be the most overwhelming single factor to be considered in this bill is the need for an intelligent, thoughtful Federal oversight, which in our dual system can only be provided for State-chartered banking operations by either or both the FDIC and the Federal Reserve.

Senator McIntyre. The Federal Reserve Board argues for reserve requirements on subsidiaries as well as branches, agencies, and commercial lending companies. Mr. Heimann, how do you view this request on the part of the Federal Reserve?

Mr. Heimann. Our basic feeling is that we think it's fair and proper in terms of the branches, and we are not, I don't believe, as strongly inclined in terms of subsidiaries and agencies as the Fed. We understand their reasons for it, but again our primary concern has been over the branches themselves, and that's where we would like to see it.

Senator McIntyre. Do you want to comment on that, Mr. LeMaistre?

Mr. LeMaistre. In general I would agree with that. I think that at the moment, even though it's growing rather rapidly, this is not a very large segment of our banking community. It still remains a rather small percentage, even though that small percentage is growing every day, and I'm not at all persuaded that it's necessary to apply the reserve treatment to every institution or to every office or to every corporation of whatever kind.

As I said before, I think that deserves a great deal of study and ought to be a subject of a different inquiry.

Senator McIntyre. Well, gentlemen, the Federal Reserve argues strongly it should have direct examination authority over foreign banks, particularly in light of the fact that this bill provides foreign banks maintaining reserves with the Federal Reserve access to the Fed discount window. How would you respond to the Federal Reserve's position in that regard?

Mr. LeMaistre. Well, I would say that if you're seeking national treatment on a nondiscriminatory basis of the branches of foreign banks doing business in the country as compared with the business being done by domestic banks, then they ought to have the same rights and privileges; and one of those is that they are not required to join the Federal Reserve System. So I think we have two conflicting ideas here. One of them is that it's of great importance that we treat these branches of foreign banks in an equitable manner and no differently from the way we treat our own, and it seems to me if we do that we have to accept the proposition that it is not necessary for them to be subjected to the reserve requirements. I think they have a choice to make, or should have.

Senator McIntyre. Do you agree, or do you want to comment, Mr. Heimann?

Mr. Heimann. I think there are two questions, one, whether there should be mandatory Fed membership. And, I am sorry, I am going to keep coming back to the basic theme, which is some sort of organized Federal oversight of the whole phenomenon in the growth of foreign banking in the United States.

Let me take the latter first. I do think that it is in the national interest to have a consistent review of these activities, be that through the FDIC, assuming insurance and their responsibility to examine with the States under their own insurance responsibility, or the Fed. As you know, the Comptroller acts with the Fed in this respect with the national banks. I am assuming that many of them will remain State-chartered, because there has been such a successful experience for our foreign banks through State charter.

I do believe there must be consistency on a national basis with respect to the continuing review of foreign banking operations in the United States.

And that does come back to only two Federal agencies. Unlike what may have been said before, I am not arguing that it should be the Comptroller's Office, because that clearly would not be correct under the dual banking system.

So that I think I would argue for someone having that responsibility, FDIC or the Federal Reserve; it must be vested somewhere on a national basis.

Second, with respect to mandatory Fed membership, I am afraid I don't have the numbers with me, and I would like to look them up, but it is a reality that we talk about three banking systems in the United States. I think I have heard the phrase "tri-level". I might say that we could even divide it in some other fashion. The reality is there is a multinational banking system in the United States, both State chartered and nationally chartered, which tends to consist of very large institutions.

Most of the foreign banks that have entered this Nation have also been very large institutions. We should be applying the ground rules between the multinational institutions rather than across the warp and woof of our banking system, which, as you know, has within it lots of smaller institutions, that are very productive and helpful.

I believe that there should be reserve requirements for the sake of basic parity among the multinational banks, including the foreign banks, so we agree with the Fed in that respect.

Senator McIntyre. Mr. LeMaistre, on the issue of mandatory versus optional FDIC insurance, is there any practical means of distinguishing, as the foreign banks suggest, between retail deposits requiring insurance protection, and commercial deposits which do not?

Mr. LeMaistre. You mean is there any way for the public to distinguish between them?

Senator McIntyre. For the FDIC.

Mr. LeMaistre. It might be a difficult task, but I think if we were permitted inspection, we could tell. If we were allowed to go in and find out the source of the deposits, we could very easily tell whether it is a retail or commercial deposit.

I don't think that that would necessarily cause us a problem.

Senator McIntyre. There doesn't appear to be any easy way of distinguishing between retail deposits requiring insurance protection and commercial deposits.

Is there anything further we can do in this bill that would enable the FDIC to be able to make a distinction, and therefore when insurance was needed and when it was not?

Mr. LeMaistre. I am at a little bit of a loss at this time to say what else could be done to improve that section.

However, we would be happy to work with your subcommittee to develop legislative language which would enable the FDIC to make this sort of distinction in the course of its job of insuring the domestic deposits in domestic branches of foreign banks.

Now of course if the purpose is only to protect the innocent, you could require them to simply display a large statement that they are not insured, if that is just to keep the public from getting into difficulty.

But I think there is a reason and one that is probably well supported, for some kind of insurance arrangement that doesn't present too great a burden.

I have to say that it might be rather expensive, and one of the provisions of this bill is that we are to provide this coverage in such a way as to not unduly burden the bank in conducting its business. That does present a little bit of a problem.

Senator McIntyre. Senator Schmitt.

Senator Schmitt. Thank you, Mr. Chairman. First, I would like to take one phrase on page 2 of Mr. Heimann's testimony and suggest to the committee that we emblazon it on the wall above our heads. It is this: "As always, there will be a few transgressors, but the price of a free market system is that all wrongdoers can not be excluded in advance."

We have had some interesting discussions in this committee about trying to exclude all wrongdoers in advance. I think that is just an excellent statement, and I just wanted to repeat it.

Would both of you comment further on any disadvantages or problems you see with even optional reserve requirements on foreign banks?

For example, do you see any problem if interest was allowed on those deposits? Do you see the foreign banks in any way getting an even greater advantage because of their foreign relationship? Or would we in any way be subject to a loss of funds as a result of this?

Mr. LeMaistre. I can't believe that the foreign banks would be in a position to beef up their reserves in order to maximize the return on them. So I doubt if you would run into any criticism because of payment of interest if that came about.

I really don't think that would be a very serious problem. The maintenance of reserves plus the cost of deposit insurance, though, might make it unattractive to a foreign bank to do business in this fashion. That is assuming they didn't get enough interest to pay for the idle reserves.

Mr. HEIMANN. Senator, I agree with Chairman LeMaistre. However, I would like to add just one comment to that. The cost, if you will, is the cost that is presently being borne by our domestic institutions that are Fed members. Again I think we have to distinguish when we talk about the large multinational institutions, not the broad scope of the total banking system of the United States, but those 140, or 146 to 150 banks that are dealing internationally, as well as domestically. That is the basic competitive group, if you will, vis-a-vis the foreign banks in the United States.

Those institutions at the present time are bearing the cost in the present system of the sterile reserves and, of course. of FDIC coverage. Therefore, in terms of equity or parity, whatever phrase you want to use, the foreign banks would be no worse off than our domestic banks as the competitor.

Senator SCHMITT. Are you both saying that as it now stands, you would not expect the foreign banks to join the Fed system? It would be to their disadvantage to join, and that we probably wouldn't see much of this?

Mr. HEIMANN. It clearly increases their costs, and if it increases costs, then it becomes less advantageous than the present system.

Senator SCHMITT. Do either of you see, in your projections, the possibility of foreign banking reaching the point where we begin to lose even more visibility in the monetary system, particularly, say, in the money supply and other parameters of that kind, which the Fed uses as its system of measurement?

Mr. HEIMANN. Well, that kind of extrapolation is rather difficult to be precise about in any way. I think that is the basic point that the Fed is making in terms of the reserve requirements, that it would be easier and more prudent for monetary policy reasons to have these institutions included.

Senator SCHMITT. Mr. LeMaistre?

Mr. LEMAISTRE. As I said before, I think that subject needs a great deal of study. I think it ought to be the subject of a comprehensive survey, and separate legislation.

But frankly, I am certainly not saying that it isn't worthwhile to be a member of the Federal Reserve system. What I am saying is before we say everybody has to be a member, we ought to look very carefully at what we are requiring.

Senator SCHMITT. Mr. Heimann, in your testimony, you referred to the McFadden Act and maybe in your written testimony you do, also.

Would you both care to comment further on the McFadden Act, what you would recommend, even separate from this legislation, that the Banking Committee consider?

Mr. HEIMANN. As I have said in our testimony, I think the time has come for reevaluation of the McFadden Act. We have not sat down and tried to rewrite the law, certainly not, but we think that the world has changed substantially since the law was enacted by the Congress.

It is very healthy indeed to review the structural questions affecting the activities of banks periodically, in order to determine whether the reasons for that particular structure are still valid, and should be continued or adapted or changed in any way.

I brought up the issue, as you know, of the dilemma that we face with respect to multistate branching. It has to do with restrictions of McFadden with respect to our domestic institutions.

Mr. LeMaistre. I would agree that probably it is time to look again at McFadden. As you know, it was originally intended to expand the powers of the national banks when it was adopted. Now it is used more for the purpose of delineating or restricting their powers as opposed to State banks, and that is not necessarily bad, I just think it is time to take another look at it.

I think it has served its purpose well, and probably doesn't need a great deal of change. But it is certainly worthy of study.

Senator Schmitt. In either one of your agencies, are you in the process of doing that, studying it from your particular points of view?

Mr. Heimann. I think it is fair to say we have a constant discussion about it. I wouldn't say we are studying it in terms of an additional kind of survey. We more or less know the problems it has caused in the structural system. The question would really be what would be the ramifications of change.

If I may give an example the Congress, as you know, is considering EFT facilities. That is another area in which the same question is raised, albeit with the technological improvements, but nevertheless coming to the questions of the geopolitical border versus the natural market area of a given set of financial institutions.

Senator Schmitt. Well, that legislation was one of the reasons that prompted me to quote your statement.

Finally, Mr. LeMaistre, have you had a chance to think through, how, under the proposed legislation, if it became law, you would carry out your enforcement provisions? That is provisions, with respect to regulations governing foreign banks, and the mechanism. There would have to be some differences in how you would examine records or get to records.

Mr. LeMaistre. It would require further training, I am sure. But at the moment two of the three largest banks that we supervise are foreign owned banks, and it is not a field with which we are wholly unfamiliar.

I don't think it would be a great problem to go right into the examination of these branches and enforcement of regulations as they apply to them. But as I say, it would require more people and more training. But I think it can be done without a great deal of difficulty.

Senator Schmitt. Are there any diplomatic considerations within reach that you would have to obtain to understand what is going on?

Mr. LeMaistre. Well, I think there are always considerations which relate to the amount not only that you have to have, but you should be permitted to have.

Obviously there are some countries which are even more zealous in protection of the records of a bank than we are. It is quite possible in some of those cases we would not be able to obtain information from the main office. Or at least not all we wanted. But again I think that we could continue to operate. I haven't seen any evidence of any wrongdoing or any short cuts being taken by branches of foreign banks in this country that would cause us to feel we couldn't trust them.

Senator SCHMITT. Have you discussed this at all with the State Department?

Mr. LEMAISTRE. No, I have not.

Senator SCHMITT. Thank you, Mr. Chairman.

Senator MCINTYRE. Senator Stevenson.

Senator STEVENSON. Thank you. Mr. Heimann, if the multistate lending activities of branches are restricted, as you suggest, then the economy is deprived of those services, and the banks are deprived of competition which you profess to support.

Why not reconcile these conflicting objectives this way—I am going to put the same proposition to you as I have to earlier witnesses—permit the multistate lending activities, if the State does, limit the competition where it doesn't do much good anyway and can do a great deal of harm, namely, on the deposit side, by limiting the deposit activities of the branches and agencies, outside of the foreign bank's home state to those permitted under the Edge Act for everybody.

That way the competition for deposits is limited, we retain or we get an opportunity to bring in deposits from foreign sources, from export transactions; and on the lending side, where we need more credit facilities particularly with respect to trade, we get it.

What would be wrong with such a formula?

Mr. HEIMANN. Senator Stevenson, I think it is a very interesting idea. You have heard the answers given by Chairman Miller. I must say that I myself am in basic agreement with the concept, but it should be looked at very carefully. I have not seen or done or studied comparing the activities of agencies as against loan production office. I would like to see that done. I think that is something our office could do immediately. It is a concept well worth reviewing.

Senator STEVENSON. Would you do so, think about it, look at it?

Mr. HEIMANN. Certainly.

[The following information was received for the record:]

MULTISTATE BANKING ACTIVITIES BY DOMESTIC AND FOREIGN BANKS: FOUR FORMS

This information was prepared in response to a request by Senator Stevenson. It compares two forms of multistate activity by foreign banks (the branch and agency forms) with two multistate activities of domestic U.S. banks (Edge Act corporations and so-called loan production offices).

Of the four, the branch form appears to permit banks the broadest range of banking activities, with agencies following a close second. The differences between the two lie primarily in the prohibition on the acceptance of deposits by agencies, and in the states' differing restrictions on each. Some states, such as Florida, permit agencies but not branches of foreign banks. In general treatment of foreign banks' branches and agencies varies a great deal from state to state and indeed some states do not admit them at all.

The distinctive feature of Edge Act corporations is that their banking activities are fairly strictly restricted to those tied to international commerce, investment or finance. Many conduct a wide range of international banking at home and abroad. They are federally chartered by the Federal Reserve Board and are not subject to the banking laws of any state, unlike branches and agencies. Restrictions on their deposit-taking activities are similar to those on agencies; as a result, both Edge Acts and agencies obtain much of their financing in the interbank market. They are administered by the Federal Reserve Board under Regulation K. Foreign banks cannot own Edge corporations.

The range of activities permitted and undertaken by loan production offices is far slimmer than that of the other three forms. They do not accept deposits, make loans or pay checks. They are most directly comparable to the "representative offices" that many foreign banks maintain in the United States. They solicit loans, generate business, and in general serve as a local contact point on behalf of the parent bank. They are not specifically regulated by any federal authority; some states explicitly regulate them.

Notes to the table:

(1) The table was prepared from published sources and discussions with various state and federal officials. It is intended to be informative rather than definitive.

(2) Since state laws and regulations governing permissible activities of branches and agencies differ substantially, the listing under these headings is only indicative; it is based on the regulations of New York, California and Illinois.

30-563 O - 78 - 9

COMPARISON OF THE ACTIVITIES OF BRANCHES AND AGENCIES OF FOREIGN BANKS, AND OF EDGE CORPORATIONS AND LOAN PRODUCTION OFFICES OF DOMESTIC BANKS

Feature or permitted activity	Foreign banks (omits representative offices)		U.S. banks	
	Branches	Agencies	Edge corporations	Loan production offices
1. Relevant regulatory authority	State banking authority	State banking authority	Federal Reserve Board. Note: Agreement corporation's, which are similar, are State-chartered. Few exist.	Same authority as parent bank: State; FRB or OCC.
2. Multi-State activities	Yes, where state permits (effectively precluded in California).	Yes, where State permits (not permitted in Illinois).	Yes, domestic banks can establish in more than 1 State; but not permitted to foreign-owned banks.	Yes.
3. Subject to reserve requirements	Yes	No, except on nonresident deposits in California.	Yes	Not applicable.
4. Accept deposits:				
4.1 Domestic	Yes	No, but can accept "credit balances"—deposits held at very short-term pending transactions.	Only those incidental to international business.	No.
4.2 Foreign	Yes	No, but can accept "credit balances." In California, nonresident time deposits are permitted.	Yes, as long as not used for domestic purposes.	No.
5. Borrow funds in the interbank market	Yes	Yes	Yes	No.
6. Issue negotiable short-term securities such as CD's.	Yes	No	No	No.
7. Borrow long-term	Yes	Yes	Yes	No.
8. Issue negotiable long-term notes	In some States	In some States	Yes, with FRB permission	No.
9. Make loans	Yes, with some restrictions such as lending limits.	Yes	Only those incidental to international business.	No; only "accept loan applications."
10. Generate loan business	Yes	Yes	Yes	Yes.
11. Service loans	Yes	Yes	Yes	May follow up on loans but may not receive payments.
12. Make investments in subsidiaries	No	No	Yes—foreign ones and domestic ones incidental to international business.	No.
13. Provide letters of credit, bills of exchange, and acceptance financing.	Yes	Yes	Yes	No.
14. Provide trust services (possess fiduciary powers).	In some States	No	No	No.
15. Foreign exchange trading	Yes	Yes	Yes	No.
16. Clear and pay checks	Yes	No	No, except "credit balances" incidental to international business.	No.
17. Provide fee-based services, consulting	Yes	In some States	Undetermined; would require FRB approval.	No.
18. Provide "free" financial counseling	Yes	Yes	Yes	Yes.

Senator STEVENSON. And the next part of it is to liberalize the Edge Act regulations and the laws governing the Edge Act corporations, and with parity for the foreign and domestic institutions, to make them more useful institutions for the support of trade, especially exports.

Those regulations go back a long time, too. The Edge Act goes back a long time.

It also, I submit, deserves some review at this point. And perhaps, unlike the McFadden Act, we could do so in conjunction with this legislation, though I think it also requires a liberalization of regulations.

So the second part of that proposition is giving some thought to that.

Mr. HEIMANN. Certainly. I think it is a very attractive concept, liberalizing it for exports.

[The following information was received from the Comptroller's office:]

These comments are in response to Senator Stevenson's request that the Comptroller's Office consider means of easing the lending restriction on Edge Act corporations.

The Comptroller's Office has a long standing principle of promoting greater competition in financial markets. We therefore view favorably the objectives of Senator Stevenson's proposal: first, to broaden the range of loan facilities available to business throughout the United States, particularly where this would facilitate foreign trade; and second, to achieve equity in the treatment of foreign and domestic banks' cross-state activities. Although direct jurisdiction over Edge corporations, under Section 2(a) of the Federal Reserve Act, lies with the Federal Reserve Board, the Comptroller's Office does have an interest in broadening the range of permissible lending activities of national banks through the Edge affiliates as this should bring about greater diversification and stability of revenues.

While time has not permitted a comprehensive study of Edge Act powers and restrictions, we support two proposed amendments to Section 25(a) of the Federal Reserve Act proposed by the Federal Reserve Board. These are contained in items 1, 2 and 3 of the Board's "Proposed Amendments to H.R. 10899."

The first amendment extends the Board's discretion in allowing Edge corporations to issue debentures, bonds and promissory notes in a total amount exceeding ten times their capital. The effect would be to ease the scope for borrowing by Edge corporations.

The second amendment removes an outdated restriction on the reserves held by Edge corporations. The effect would be to eliminate a ten per cent minimum reserve requirement and to give the Board the power to set Edge Act reserve requirements equal to those imposed on member banks, assuring a greater degree of competitive equality.

We also note that the Board is engaged in a review of all its regulations, including Regulation K. We support a more liberal interpretation of the Edge Act by the Board, and we shall, of course, cooperate in a re-evaluation of this Regulation.

Senator STEVENSON. Do you have any response to this proposition, Mr. LeMaistre?

Mr. LEMAISTRE. I think it deserves study, but I really——

Senator STEVENSON. Are you going to give it study, too?

Mr. LEMAISTRE. I would be glad to get someone to do that. It seems to me as long as you preserve the concept of parity, so each of them operate in the same way, that the liberalization of the provisions of the Edge Act cannot really do any harm. It seems to me it would be helpful.

Senator STEVENSON. I don't think it is realistic to expect perfect symmetry or parity, but I think this overall formula comes pretty close and it might also help facilitate American exports, which should be an important objective of American policy.

Mr. Chairman, I hope that all these studies and all these witnesses can result in a serious consideration by this committee of this proposition. And I don't know of any study that has been done of it. Thank you.

Senator McIntyre. I might say, Senator Stevenson, for the edification of all, that the record is due to close in 7 days, and the markup date for the bill is set for July 26 and 27. So, if they are going to do any studying, they have to burn the midnight oil, I guess, on this issue.

Mr. LeMaistre. We will do the best we can.

Senator McIntyre. Senator Proxmire.

Senator Proxmire. Mr. Heimann, in response to Senator Stevenson's question—he has proposed an excellent approach to a compromise here—I would like to have your views on whether or not it is possible to sever the deposit and loan function this way.

As I understand it, very often the same firm that will get a loan will also make a deposit, and when the same firm makes the deposit, it will borrow money. And usually there is such a close link there that if a firm is able to borrow money, but unable to make deposits, it might be far less attractive both for the bank and for the firm that is involved.

Am I wrong about that? Or would it be feasible and practical in your view to separate those, which Senator Stevenson's proposal might imply?

Mr. Heimann. I think you are absolutely correct in theory, that there has always been a relationship between deposit and loan activity.

What I think we are talking about is the location of the deposit and loan facility. To put it another way, to use a domestic example, in this age of wire transfer, electronic transfer, there is a whole host of methodologies by which one can deposit money in one place and have it transferred immediately to another place, with great ease and precious little loss of time. The facility need not be the same physical facility to accomplish that relationship of deposit to loan on the part of the borrower.

So theoretically one could arrange for a loan in the State of Illinois with a bank located on the State of Georgia. The funds could be transferred through the system, through the bank in Illinois to the recipient bank in Georgia, or loan money can be forwarded in the reverse transaction.

So that whereas there is a relationship, it need not be situated physically in the same place.

Senator Proxmire. I would like to ask both you and Mr. LeMaistre to resolve your differences a little bit, to the extent you can, or sharpen them. On deposit insurance, Mr. LeMaistre, you are our expert on that, and you say it should be optional; Mr. Heimann indicates he thinks it should be mandatory and comprehensive, at least that is my understanding.

Mr. Heimann. Yes, sir.

Senator Proxmire. And you seem to argue in your excellent paper that the optional would provide full protection for the depositor and better protection for the Deposit Insurance Corporation, is that correct?

Mr. LeMaistre. Well, I say it should be optional if you are giving great importance to the national treatment of branches of foreign banks, if they are to be treated as our institutions are.

Senator PROXMIRE. Why would it discriminate against them, if we make deposit insurance comprehensive and mandatory, as we do with all of our banks?

Mr. LEMAISTRE. We don't with all of our banks. There are a number of States which permit a bank if it chooses to operate without it.

The first section of our act says a bank can voluntarily surrender its insurance.

Senator PROXMIRE. Except for Illinois. We were told by Mr. Miller only Illinois is that exception. Is he wrong?

Mr. LEMAISTRE. I think I have them here——

Senator PROXMIRE. That is all right. You say there are a number of States?

Mr. LEMAISTRE. There are several. I would say the great majority of them do require that an institution have insurance before it is allowed to open for business. But there are some that do not require it.

And I don't think anybody coming in here from Germany or England or some place like that would likely open a branch and not want insurance, if he is going to do retail business. But I say it is an option he ought to have, if the American banks have it.

Senator PROXMIRE. What is your answer to that, Mr. Heimann?

Mr. HEIMANN. As you see, I am one-third lost on that vote with FDIC.

I don't agree. And the reason I don't is I think that we are perhaps really dealing with the wrong problem, that is, if a noninsured foreign bank failed in the United States, it is my own opinion that the reasonable pressure to cover those deposits of the innocent, the uninsured depositor who utilized that facility, would be such that it could very well be very serious.

More important, it would cause consternation in the system, I don't know the number of banks that are uninsured in this country, but I do think there are precious few and they are relatively small. But in this case, the public most likely will be dealing with a large financial institution, albeit a foreign one, and they will be rightfully expecting the kind of protection that we have afforded all of our depositors in this country.

I think we might as well just bite that bullet of reality so that we prevent future problems that just don't need to be created.

Senator PROXMIRE. Mr. Heimann, I have introduced an amendment that would give the Federal Reserve examination jurisdiction over foreign banks. I do that in part because they requested it, and in part because I think it makes sense. They have jurisdiction over holding companies, as you know, so why shouldn't we have uniform jurisdiction for examination of foreign banks, rather than have you have jurisdiction as you would like to have over some foreign banks, and the Federal Reserve over others, and perhaps FDIC in other areas.

What is wrong with providing the Federal Reserve shall have that uniform jurisdiction?

Mr. HEIMANN. Well, sir, we were discussing this briefly before. I believe that the dual banking system has great merit. If a foreign bank chooses to be nationally chartered, by the State.

As you know, at the present time all national banks are members of the Federal Reserve, and of course the Comptroller of the Currency has the responsibility for examining those institutions.

What I am most interested in with respect to this bill is the intelligent national oversight of foreign banking. Leaving out all jurisdictional pride or positioning, the reality is that in a dual banking system that national oversight can only be provided by either the FDIC, assuming that all of the institutions are insured, or by the Federal Reserve, if they are in the Federal Reserve orbit, depending on the reserve requirements.

And therefore it is important, and I think in the national interest, to have either or both of them assuming that responsibility. If there is insurance for all of these institutions, then clearly the FDIC must examine, must do so by its charter to protect its insurance reserve. If these institutions have a call on the window of the Fed, clearly there is a responsibility for the Fed to in some fashion know what is going on. That is done in this case through the examination process or in conjunction with the FDIC, if FDIC is examining them.

But I support wholeheartedly the concept of some Federal Reserve oversight.

Senator PROXMIRE. In this internationalization of banking, there is one dimension we haven't touched on, nobody has brought it out. We have been told we have $200 billion, our banks have $200 billion of their assets overseas.

Can you give us some feel as to the proportion that might represent of the banking assets of a country like Canada or a country like Germany or a country like Japan, so we have some notion as to whether or not in each of these countries the United States has more banking assets invested than the foreign country might have here?

I think that is probably true everywhere, but can you tell us if that is true?

Mr. HEIMANN. We can give you that precisely. I don't have the numbers with me, but we can supply that for the committee.

[The material referred to follows:]

The following information is provided by the Office of the Comptroller of the Currency in response to a request by Senator Proxmire. It compares the size of the activities of U.S. banks in several foreign countries with the activities of the same countries' banks in the United States.

The countries or groups of countries shown in the two tables that follow were intended to be representative but by no means comprehensive. The choice was made such that meaningful comparisons could be made from available data sources, and the data could be published without revealing the activities of any individual bank.

Table 1 presents data on deposits from, and loans to, nonbank customers at both types of banking institutions. The elimination of interbank activity from data for both groups of institutions facilitates comparison of traditional banking activities. The data show the extent to which both types of institutions utilize their offices in these countries to attract funds from nonbank depositors and make loans to nonbank residents. For U.S. banks, a further distinction is made between total and non-dollar-denominated activities. The exclusion of Eurodollar deposits and loans may present a clearer picture of U.S. banks' activities in the local banking market. Countries whose foreign banking sector is dominated by Eurodollar banking, such as the United Kingdom and the Bahamas, were not included in the sample.

Although U.S. banks' overseas activities are concentrated in roughly the same group of countries as are the parent banks which have operations in the United States, Table 1 indicates that there are a number of countries where the balance of loans or deposits is quite uneven. The administrative restrictions in Japan, for example, prevent U.S. banks from leading as much there as do Japanese banks in the U.S.; and under present laws, Canada does not admit foreign banks.

Table 2 provides a rough indication of the penetration of foreign banks into the U.S. credit market and vice-versa. Total bank loans are measured by statistics on bank loans to the private sector. In all cases the penetration appears to be slight.

TABLE 1.—COMPARISON OF U.S. ACTIVITIES OF FOREIGN BANKS AND FOREIGN ACTIVITIES OF AMERICAN BANKS: APRIL 1978

[Dollar amounts in millions of U.S. dollars]

Country	Activities of U.S. offices of banks from—			Activities of branches of U.S. banks in—				
					Loans to nonbanks		Deposits from nonbanks	
	Number of institutions[1]	Loans to nonbanks	Deposits from nonbanks	Number of institutions	Total	Nondollar denominated	Total	Nondollar denominated
Japan	60	$14,142	$6,868	26	$9,415	$5,572	$2,781	$2,704
Canada	29	3,362	2,128					
France	13	1,733	1,519	14	2,880	1,853	1,231	543
Germany	13	1,500	1,252	17	1,146	1,020	572	463
Italy/Switzerland	23	3,078	5,072	14	1,882	1,567	755	496
Korea/Philippines/Taiwan	22	352	204	17	2,043	540	650	384

[1] Includes agencies, branches, subsidiary banks, agreement corporations, and investment companies.

Source: Federal Reserve Board.

TABLE 2.—COUNTRY-BY-COUNTRY COMPARISON OF FOREIGN BANKS' PENETRATION OF THE DOMESTIC CREDIT MARKET AND U.S. BANKS' PENETRATION OF FOREIGN CREDIT MARKETS

[Dollar amounts in millions of U.S. dollars]

Country	Foreign banks in the United States		U.S. banks abroad	
	Loans to nonbanks	Loans to nonbanks, percentage of total bank loans	Nondollar loans to nonbanks	Nondollar loans to nonbanks, percentage of total bank loans
Japan	$14,142	2.2	$5,572	0.7
Canada	3,362	.5		
France	1,733	.3	1,853	.9
Germany	1,500	.2	1,020	.3
Italy/Switzerland	3,078	.5	1,567	.7
Korea/Philippines/Taiwan	352		540	1.9

Sources: Table 1; Federal Reserve Bulletin; and "International Financial Statistics."

Senator PROXMIRE. In Canada, it is probably overwhelming, isn't it? Don't we have a very, very big banking investment in Canada? We have in everything else.

Mr. HEIMANN. No. The Canadian Finance Ministry——

Senator PROXMIRE. Don't they let us in there?

Mr. HEIMANN. Our relationships are not as fluid, shall I say, as with some other nations. No, we don't have a large banking presence in Canada.

Senator PROXMIRE. How about the United Kingdom?

Mr. HEIMANN. Yes; relatively large. I think we can provide the figures. I just don't have them with me.

Senator PROXMIRE. Thank you.

Senator MCINTYRE. Gentlemen, I am going to have to let you go in order to move on. Thank you very much for your attendance and assistance. If you come up with any ideas on that study Senator Stevenson talked about, be sure to get it to us before we close the record.

[The following letter was ordered inserted in the record:]

FEDERAL DEPOSIT INSURANCE CORPORATION,
Washington, D.C., July 7, 1978.

Hon. ADLAI E. STEVENSON,
Committee on Banking, Housing and Urban Affairs,
U.S. Senate, Washington, D.C.

DEAR SENATOR STEVENSON: Your June 29, 1978 letter requests our comments on a proposed compromise in the interstate banking provisions of H.R. 10899, the "International Banking Act of 1978."

Briefly, instead of continuing to permit each individual State to determine whether foreign banks should be permitted to branch within its borders as the House bill would do, your letter recommends prohibiting further expansion of foreign banks' interstate activities, except that branches would be exempted from this prohibition if they accepted only those deposits related to international activities that would be permissible for Edge Corporations. Your proposal is similar to the Federal Reserve's suggestion that agencies of foreign banks be exempted from interstate branching restrictions which it recommends including in the bill.

In our opinion, the distinction between "branches," "agencies," and "commercial lending companies" is already an exceedingly fine one which loses much of its meaning in the day-to-day business world. For all practical purposes, an "agency" is a branch which does not take deposits from U.S. residents (see § 1(b)(1) of the bill), and a "commercial lending company" is essentially a domestically incorporated agency. The compromise proposed in your letter would create yet another type of facility through which foreign banks could operate in this country, but would not really permit foreign banks to do anything that they could not achieve by establishing Edge corporations and agencies across State lines.

We believe that a much simpler and more direct approach to the problem of interstate expansion by foreign banks would be to prohibit any branch, agency or commercial lending company outside a foreign bank's "home State" from accepting initial deposit balances of less than $100,000. This approach would tend to limit the interstate activities of foreign banks to so-called "wholesale" banking and would mitigate considerably the possibility that the interstate deposit-receiving powers of foreign banks might otherwise give them a competitive advantage over domestic banks. By providing deposit insurance for domestic deposits of U.S. branches of foreign banks as section 6 of the bill presently does, Congress would at the same time be protecting domestic depositors from any unexpected loss.

As we stated in our recent testimony on this bill, we strongly support section 5(a) which maintains the status quo by permitting interstate branching by foreign banks where permitted by State law.

Foreign banks currently operate banking-type operations in only 12 U.S. States while interstate operations of our large bank holding companies extend into almost every State. U.S. banks may also establish Edge Act corporations, loan production offices and representative offices in States other than their home State.

If interstate banking operations were to be prohibited or drastically curtailed for foreign banks, it is unlikely that a foreign bank would want to locate any place outside New York, California or Illinois. As a practical matter, if interstate banking activities were severely limited for foreign banks, other States would find it difficult to attract foreign banks and, hence, could not reap benefits stemming from the activities of these banks—benefits that may well accrue to the local economy.

One should not minimize the value of foreign banking growth to the banking community as a whole. We see no reasons why cities in all States should not be eligible to enjoy fully the same potential benefits of expanded foreign banking activity as are the money center States. A State should be permitted to invite a branch of a foreign bank into its banking communities if this is the only realistic way in which foreign bank entry is likely to take place.

Recent patterns of foreign banking expansion in the U.S. support the contention that regional financial centers would be hurt by a ban on interstate operations by foreign banks. The tendency is to geographically diversify foreign banking operations once banking operations have already been established in the principal centers. We believe this multi-State diversification should be permitted to continue.

If the domestic deposit-taking restrictinos of Edge Act corporations are applied to the expansion of foreign banks' interstate branching activities outside the "home State," the recent trend toward interstate banking outside of money-market centers would be substantially curtailed to the detriment of these markets. As of March, 1978, as much as 63 percent of the deposits of direct branches of foreign banks were from U.S. residents.

As to deposit insurance, our previous testimony has described our reservations about the necessity and desirabiilty of making such coverage available for domestic branches of foreign banks. If foreign banks wish to expand their operations in this country into the "retail" banking business with the benefit of Federal deposit insurance, they presently have this option under existing law by establishing a domestically incorporated banking subsidiary where State law permits.

In response, however, to the view that some form of deposit insurance coverage is necessary, we have recommended a surety bond or pledge of assets approach which would be coupled with regular deposit insurance for the domestic deposits of U.S. branches of foreign banks.

While we favor granting this type of coverage on an optional basis, we have no strong objection to requiring Federal deposit insurance for branches of foreign banks in conjunction with a surety bond/pledge of assets requirement of the type as presently provided in section 6, if Congress should conclude that the public interest requires such coverage.

We would be happy to work with your staff in drafting legislative language to implement our suggested approach to this problem.

Sincerely,

George A. LeMaistre, *Chairman.*

We next call a panel, Mr. E. D. Jack Dunn, commissioner of banking and finance, State of Georgia; national president, Conference of State Bank Supervisors, and Ms. Muriel F. Siebert, superintendent of banks, State of New York.

As I understand it, Ms. Siebert is hoping to grab the 1 o'clock shuttle; is that right?

Ms. Siebert. Yes.

Senator McIntyre. Therefore, with your permission, Jack, we will allow her to testify first. You go right ahead.

STATEMENT OF MURIEL F. SIEBERT, SUPERINTENDENT OF BANKS, STATE OF NEW YORK

Ms Siebert. Thank you very much. I will miss the plane if it is imperative because I think this bill is important.

I have submitted a full text of my remarks.

Senator McIntyre. It will be in the record in its entirety without objection.

Ms. Siebert. The following is a brief text. I am Muriel F. Siebert, superintendent of banks of the State of New York. I am grateful for the opportunity to appear before the Senate Subcommittee on Financial Institutions to testify on the subject of H.R. 10899, the International Banking Act of 1978.

In New York State, foreign banking organizations own and operate 54 agencies, 64 branches, 5 investment companies, and 20 subsidiary banks.

As of May 1978, the assets of these banking organizations exceeded $65 billion.

Foreign banks have been under the supervision of the New York State Banking Department for 100 years. Foreign bank presence in New York has made a distinctive and positive contribution toward the development of our State into one of the world's great financial centers.

New York has a vital interest in preserving and enhancing this presence. Consequently, it has a very strong interest in the proposed legislation.

Foreign banks in New York have been very good citizens, and have conducted their business properly and in my opinion have aided foreign trade.

We view H.R. 10899 as a major constructive step forward in the regulation of the activities of foreign banks in the United States.

While the New York State Banking Department does not agree with every point in the legislation, on balance this is a positive and helpful proposal, and we strongly support its enactment into law by this session of Congress.

My oral comments will be confined to two issues, deposit insurance and the role of the Federal Reserve. Time constraints prevent me from discussing other important items which are included in the more lengthy written statement.

From my perspective, the single feature of the bill which is of the most vital importance is the requirement that FDIC insurance be obtained by all federally licensed branches and by all State-licensed branches in States such as New York, which require State-chartered banks to be insured.

The banking department has long supported the requirement of FDIC insurance for foreign bank branches.

We experienced the failure of a foreign bank with a branch in New York when Intra Bank of Lebanon failed in October 1966. While the department was able to arrange for full payment to every depositor and creditor on the books of that branch, our ability to do so was partly the result of good fortune, in that the branch office was located in a valuable piece of real estate owned by the bank.

New York law requires foreign bank branches to comply with various rules designed to assure they have assets in New York adequate to cover their local liabilities. However, I do not think that it would be possible for us to demand that all public deposits be covered by real estate. Although these laws are fully enforced by the banking department, they do not provide the same absolute assurance that depositors will be paid as is provided by deposit insurance.

In the absence of FDIC insurance, we are sufficiently concerned about protection of the depositing public that we have sponsored a bill in the New York State Legislature to require that branches of foreign banks notify depositors that their deposits are not insured.

The bill, I might add, has not passed our legislature. If the International Banking Act does not pass this year, my department may be compelled to seek legislation on the State level to establish an insurance fund to cover these risks.

Further detail on this subject is contained in the attached article from the American Banker.

Senator McIntyre. Without objection, that article will be included in the record (see p. 138).

Ms. Siebert. Yes; it is attached to the formal statement. However, we think the best solution is FDIC insurance. Such insurance will result in a broader diversification of risk than would be possible in any single State and will also result in a single uniform insurance system administered by the agency that has the greatest experience and expertise in establishing and administering deposit insurance.

Our only suggestion regarding the insurance provisions of this bill, in accord with the view of the Fed, is that the insurance should cover all deposits up to $40,000, payable at an insured branch whether or not the deposits are held by U.S. citizens or residents.

This would be in line with the present FDIC practice for domestic banks and would more closely correspond to the expectations of public depositors.

In New York we have seen specific foreign banks offer gift campaigns similar to other banks. Some of these banks are also seeking ethnic deposits. Any failure which would affect the public depositors would be a poor reflection on the entire banking system.

There has also been a good deal of discussion of the provisions of this bill addressed to the authority of the Federal Reserve Board. The banking department offers no objection to the authority which is contained in the bill for the Fed to impose reserves on branches of foreign banks with worldwide assets in excess of $1 billion. We note that virtually all U.S. banks of that size are members of the Federal Reserve System. We do not think, however, that the Fed should have the authority to impose reserves on agencies and on commercial lending companies, since these entities are barred from accepting deposits and therefore do not function as banks.

We observe that on the domestic level the Fed does not have the authority to establish reserve requirements for the nonbanking subsidiaries of bank holding companies.

Moreover, the so-called commercial lending companies are separate legal entities, chartered, supervised, and examined by the State of New York.

H.R. 10899 recognizes, we believe correctly, that it would be discriminatory and contrary to the voluntary nature of Federal Reserve membership to make federally set reserves mandatory for State-chartered banks which happen to be foreign owned and the same principle is applicable to commercial lending companies.

To the extent that the Congress chooses to grant the Fed authority to impose reserve requirements and to provide access to the Fed's discount window to foreign bank offices in the United States, it would not be unreasonable to vest the Federal Reserve Board with examination powers which are coextensive with the substantive authority being granted.

For similar reasons, H.R. 10899 already provides for examination by the FDIC of insured branches. While the banking department would offer no objection to a Federal examination presence on the part of either the Fed or FDIC, perhaps it would be more appropriate for the Fed to examine only the offices of foreign banks which are subject to reserves, i.e., those banks whose worldwide assets exceed $1 billion, and for the FDIC to examine the smaller banks. This division of responsibility would parallel the existing allocation of responsibility for examination of member and nonmember domestic banks.

In closing, I would like to repeat my view that the proposal before the subcommittee is a significant, constructive step forward in the regulation of foreign banking in the United States, and I urge its passage in this session of Congress.

Thank you. I offer any continuing dialog or help that I or my staff may contribute.

[The complete statement of Ms. Siebert and attachment follows:]

STATEMENT OF MURIEL SIEBERT, SUPERINTENDENT OF BANKS, STATE OF NEW YORK

I am Muriel Siebert, Superintendent of Banks of the State of New York. I am grateful for the opportunity to appear before the Senate Subcommittee on Financial Institutions to testify on the subject of H.R. 10899, "The International Banking Act of 1978."

The State of New York is the leading center of international banking in the United States. In addition to being the headquarters for a number of American banks with extensive activities abroad, foreign banking organizations own and operate in New York State 54 agencies, 64 branches, 5 investment companies, and 20 subsidiary banks. As of May 1978, the assets of these banking organizations exceeded $65 billion. In addition, 118 foreign banks maintain representative offices in New York. Foreign banks have been transacting business in the State of New York subject to the supervision of the Banking Department for more than 100 years, and their presence has made a distinctive and positive contribution toward the growth of New York as one of the world's great financial centers. The State of New York has a vital interest in preserving and enhancing this presence, and consequently a strong interest in the proposed legislation.

H.R. 10899 is a major, constructive step forward in the regulation of the activities of foreign banks in the United States. While the New York State Banking Department does not agree with every point in the legislation, on balance this is a positive and helpful proposal, and we strongly support its enactment into law. Further, we urge passage of the legislation during this session of Congress. The activities of foreign banks in the United States are growing rapidly and with passage of time it will become more difficult to put into place a new structure of regulation as is proposed in this bill.

As various proposals for an expanded role for the federal government in the regulation of foreign banking have appeared before the Congress over the past few years, the Banking Department has expressed its views publicly on a number of occasions. Rather than again reviewing and commenting upon this bill in detail, I will confine my comments to the issues of greatest importance to the State of New York: deposit insurance, multistate banking and the role of the Federal Reserve.

From our perspective, the single feature of this bill which is of the most vital importance is the requirement that FDIC insurance be obtained by all federally-licensed branches, and by all state-licensed branches in states, such as New York, which require state-chartered banks to be insured. The Banking Department has long supported the requirement of FDIC insurance for foreign bank branches. We experienced the failure of a foreign bank with a branch in New York when Intra Bank of Lebanon failed in October 1966. While the Department was able to arrange for full payment to every depositor and creditor on the books of that branch, our ability to do so was partly the result of good fortune, in that the branch office was located in a valuable piece of real estate owned by the bank.

New York law requires foreign bank branches to comply with various rules designed to assure they have assets in New York adequate to cover their local liabilities. Although these laws are fully enforced by the Banking Department, they do not provide the same absolute assurance that depositors will be paid as is provided by deposit insurance. In the absence of FDIC insurance, we are sufficiently concerned about protection of the depositing public that we have sponsored a bill in the New York State Legislature to require the branches of foreign banks to notify depositors that their deposits are not insured. The bill—I might add—has not passed the Legislature. If the International Banking Act does not pass this year, my Department may be compelled to seek legislation on the state level to establish an insurance fund to cover these risks. Further detail on this subject is contained in the attached article from the "American Banker."

It is clear, however, that the best solution is FDIC insurance. Such insurance will result in a broader diversification of risks than would be possible in any single state, and will also result in a single uniform insurance system administered by the agency that has the greatest expertise in establishing and administering deposit insurance. Our only suggestion regarding the insurance provisions of this bill, in accord with the view of the Fed, is that the insurance should cover all deposits payable at an insured branch, whether or not the deposits are held by United States citizens or residents. This would be in line with present FDIC practice for domestic banks and would more closely correspond to the expectations of public depositors.

Let me turn now to an issue which has drawn a great deal of comment: the extent to which foreign banks should be permitted to operate facilities in more than one state. There seems now to be rather broad acquiescence in the view that foreign banks should, at a minimum, be permitted to establish non-deposit banking facilities wherever permitted by state law. There is, however, still significant disagreement as to whether foreign banks should be permitted to establish deposit-taking facilities, i.e., branches and commercial bank subsidiaries, outside their state of principal operation.

The discussion of this issue has been in large measure a discussion of what is meant by competitive equality and national treatment. Those who believe identical rules are the essence of equal treatment point out that domestic banks are prohibited by law from establishing full deposit-taking facilities in any state outside their state of principal operation. It is asserted that giving greater powers to foreign banks would lead to substantial inequality. Those who believe that practical equivalence rather than legal symetry is the basic issue point to the nationwide network of financial services offices of various types maintained by the major domestic banks.

There is a growing realization that the real issue in this connection is not competitive equality between foreign and domestic banks, but competitive equality between states. As a practical matter, virtually every foreign bank which establishes operations in the United States sets up first in New York, because of its position as the center of the financial and investment activities in the country. If a foreign bank could have deposit-gathering facilities in only one state, that state would have to be New York, or for some banks possibly California.

This would severely limit the ability of any other state to establish itself as a regional center for international finance. Although in a narrow sense it might be to New York's advantage to support legislation which would bar other states from competing with New York foreign bank offices, the New York Banking Department has consistently taken the position that foreign banks should be free to establish deposit-taking offices in any state which chooses to admit them. We do not wish to deprive other states of this country of the capital, financial expertise and access to banking facilities which would be made available to them by the presence of a number of offices of foreign banks. We believe that liberal rules on foreign bank entry to all states are in the best interests of the country at large, and that the resulting overall growth of foreign bank activities in the U.S. will benefit New York.

The Bank Holding Company Act, at present, permits a bank from one jurisdiction to acquire or establish banking facilities in another state if the second state expressly permits this. The logic of allowing states to determine for themselves whether to let in out-of-state banks is equally applicable to permitting such states to choose for themselves whether they wish to extend such reciprocal banking privileges only to foreign banks.

The New York State Banking Department therefore supports the bill which passed the House of Representatives, which would permit foreign banks to establish branch offices wherever permitted by state law. In recent discussions of this issue, reference has frequently been made to the announcements of the proposed acquisition of three large U.S. banks, two in New York and one in California, by major foreign banks. It is implied that through such acquisitions a foreign bank could acquire existing domestic banking organizations in more than one state and thus do a true multi-state retail deposit banking business. One point should be made very clear: any company, whether it be incorporated in the United States or in a foreign country, which owns a bank anywhere in the United States is covered by the present provisions of the federal Bank Holding Company Act and, as a result, is barred from acquiring a bank in any other state of the United States, unless explicitly authorized by state law.

There has also been a good deal of discussion of the provisions of this bill addressed to the authority of the Federal Reserve Board. The bill would authorize the Fed to set reserves for federally licensed branches and agencies of foreign banks with worldwide assets in excess of $1 billion. The Fed would also be authorized to set reserves for state-licensed branches, agencies and commercial lending companies "after consultation and in cooperation with the state bank supervisory authorities." The bill would also permit the Fed to open its discount window to any U.S. office of a foreign bank which maintains reserves with the Fed.

The Banking Department offers no objection to the authority of the Fed to impose reserves on branches of foreign banks with worldwide assets in excess of a billion dollars. We note that virtually all U.S. banks of that size are members of the Federal Reserve System. We do not think, however, that the Fed should have the authority to impose reserves on agencies and commercial lending companies since these entities are barred from accepting deposits and, therefore, do not function as banks. We observe that, on the domestic level, the Fed does not have the authority to establish reserve requirements for the non-banking subsidiaries of bank holding companies.

We would also note that the so-called "commercial lending companies" are separate legal entities chartered by the State of New York as investment companies pursuant to Article XII of the New York Banking Law. Their particular mix of powers and restrictions is set by our laws, and they are subject to examination and supervision by the Banking Department. They are thus in the same position for legal and policy purposes as state-chartered commercial banks whose stock happens to be owned by foreign entities. H.R. 10899 recognizes, we believe correctly, that it would be discriminatory and contrary to the voluntary nature of Federal Reserve membership to require those banks which happen to be foreign-owned to have Federally set reserves while making Federal Reserve membership voluntary for domestically owned banks. It would be equally inconsistent with the present structure of the dual banking system to require state-chartered entities which fit the commercial lending company definition to be subject to federal reserve requirements if they happen to be owned by a foreign bank.

To the extent that the Congress chooses to grant the Fed authority to impose reserves and to provide access to the Fed discount window to foreign bank offices in the United States, it would not be unreasonable to vest the Federal Reserve Board with examination powers which are coextensive with the substantive authority being granted. For similar reasons, H.R. 10899 already provides for examination by the FDIC of insured branches. While the Banking Department would offer no objection to a federal examination presence on the part of either the Fed or the FDIC, perhaps it would be more appropriate for the Fed to examine only the offices of those foreign banks which are subject to reserves, i.e., those banks whose worldwide assets exceed $1 billion, and for the FDIC to examine the smaller banks. This division of responsibility would parallel the existing allocation of responsibility for examination of member and non-member domestic banks.

In addition to the proposals for imposing federally-established reserves and federal examination requirements on foreign bank offices in the U.S. currently contained in H.R. 10899, the Fed's suggested amendments include a provision which would add to the bill a new Section 7(d). This section would, in effect, empower the Fed to impose on state-licensed banks or agencies of foreign banks whatever requirements as to maintenance of assets are developed by the Comptroller for federally-licensed branches or agencies unless the Fed determines that the comparable requirements of state law are "adequate." It would be contrary to the present generally accepted division of responsibility between federal and state regulators for the federal authority to be given power to effectively decide whether state laws and regulations on capitalization of state-licensed banking institutions are acceptable. Nothing else in H.R. 10899 suggests that federal regulators should have power over state-licensed branches or agencies in these areas, and the International Banking Act is not an appropriate place to begin a debate over such a fundamental change in the existing structure of the dual banking system.

Finally, I would like to record my opposition to the requirement in Section 9 for detailed Federal guidelines for foreign bank entry into the U.S. For many years, the Banking Department has consulted with the appropriate Federal authorities to ensure that important national issues are considered when making judgments on applications by foreign banks. These proposed guidelines are simply not needed.

In closing, I would like to repeat my view that the proposal before the Subcommittee is a significant, constructive step forward in the regulation of foreign banking in the United States, and I urge its passage by this session of Congress.

Thank you.

[From the American Banker, June 13, 1978]

NYS MAY START FOREIGN INSURANCE FACILITY

(By Anthony Mattera)

NEW YORK.—Muriel F. Siebert, New York State Superintendent of Bankers said Monday she would move to establish a state facility to insure domestic deposits of foreign bank branches here if Congress does not pass the International Banking Act.

Among the provisions of the act is one that would make Federal deposit insurance mandatory for foreign bank branches in states where federal insurance is mandatory for state-chartered United States banks.

"I get worried when I see foreign banks advertising for public deposits and offering the same gift campaigns (as domestic banks) and I know they're not insured," she said.

Speaking before an international banking symposium sponsored by Peat, Marwick, Mitchell & Co., Ms. Siebert said she was "sufficiently concerned about the protection of the depositing public that we have sponsored a bill in the New York legislature to require foreign bank branches to notify depositors that their deposits are not insured."

Ms. Siebert said the state deposit insurance fund, would have to have "the blessings of the legislature." But, she said such a fund would be a last resort.

"I would prefer to see it (foreign banks' deposit insurance) in the (International Banking) Act," she said. She noted that it was unlikely the act would pass Congress without the Federal insurance provision.

About a proposal to establish a free trade zone in New York City, Mrs. Siebert said she was confident that some means would be found to satisfy the Federal Reserve Board that domestic money would not seap from the monetary system through the domestic international banking facilities.

The free zone bill has passed the New York State legislature and Gov. Hugh L. Carey is expected to sign it. Some Federal Reserve Board members have opposed the bill on the ground that it would create a problem of domestic fund seepage into the international market.

Income earned by banks conducting international business through the free-trade facilities would be exempt from New York City and state taxes, as well as from interest limit and reserve requirements if the Fed approves the idea.

The New York State banking regulator also said her office is seeking greater financial disclosure from foreign banks applying for offices here. She said she believed some foreign applicants did not have a realistic idea of the expense involved in operating an office in New York. "I have an obligation to make sure they understand the cost of doing business here," she said.

Ms. Siebert said the banking department has returned foreign banks' applications because they included unrealistic expense estimates.

"When someone tells me their Telex and phone bills are going to run $300 a month," she said, "I don't believe it."

Senator McINTYRE. Ms. Siebert, you argue strongly for mandatory FDIC insurance, yet FDIC itself, the expert in this field, argues for an approach combining a modified pledge of assets requirement and optional insurance.

Have you studied the FDIC proposal and can you comment on it at this time?

Ms. SIEBERT. I have not studied the proposal. We believe it would be more expensive for the banks if they had to pledge some of their assets. I believe as long as these banks are taking public deposits that they should be insured. We have foreign banks in New York that are offering gift campaigns that are the same as those our State or federally chartered savings or commercial banks offer. I do not believe that the depositors recognize that these deposits are different from those in our other banks.

Senator McINTYRE. Mr. LeMaistre made it very clear that in trying to mandate this, it would be a very difficult proposition for the FDIC to establish whether or not this particular bank, the applicant, was in a position to receive the FDIC insurance.

Ms. Siebert. We have in New York, our branches an asset test of 108 percent to each 100 cents of liabilities. So in effect we have an 8 percent forced capital ratio. We get monthly reports from the banks, we have asset tests, we examine them annually.

I realize and recognize the FDIC's position, where they do not want to insure the arm when they don't insure the entire body.

But we think FDIC insurance is warranted, we think the risks to the FDIC can be contained. We think that examination privileges combined with our examination, and we examine the foreign banks every year the same way we examine our own banks, will permit the FDIC to determine insurability.

Senator McIntyre. How do you respond to the argument that deposits in foreign branches are not really retail deposits and therefore don't need FDIC insurance protection?

Ms. Siebert. I believe that while some of the fogeign banks do not seek retail deposits, some of them in New York are starting to seek retail deposits aggressively. I can send you a copy of an article—I spoke before the Pete Marwick International Partners, and the Wall Street Journal wrote it up, and the article I have submitted was from the American Banker, in which they comment on my speech.

Some of our banks in New York are seeking retail deposits. We have banks that are starting to seek the ethnic deposits. They seem to have a following among the people in New York. I do not believe New York would be any different from any other State.

Senator McIntyre. Ms. Siebert, given the nature of the business of foreign branches, how significant would FDIC insurance be, given the current $40,000 limit?

Ms. Siebert. Well, I am interested in the depositing public, not General Motors or I.T. & T. But I do think the depositing public is entitled to insurance protection. I have had experiences with this, my department was the only State that paid off on that money order company that went broke across the country, and we had to go to the legislature, we had to set up an insurance fund, we had to get contributions from other companies, we had to tax them, we had to put a guard outside of the door, because the public was coming clamoring for their money, because they thought the money order company was the equivalent of a bank.

We took over the municipal credit union last year to rehabilitate it. I went through 3 days of a run, it is a very scary thing. Even though my examiners were handing out leaflets on my official stationery saying the deposits were insured for $40,000, I personally stood in line talking to people assuring them that their money was safe. The depositing public is not knowledgeable enough to look to see whether deposits are insured or not.

I am not worried about the large corporate accounts, I am worried about strictly the depositing public.

Senator McIntyre. I note in your statement that you said legislation was introduced, apparently at your behest, in the event that the banks did not have FDIC insurance protection, the depositors would be required to be notified of that. But the legislation didn't move?

Ms. Siebert. I didn't have the votes, Senator.

Senator McIntyre. Well, that is the way it goes around here, too.

Mr. Dunn, would you comment on just this subject matter we have been talking about?

Mr. Dunn. Senator, as far as the Conference of State Bank supervisors is concerned, we feel, as Mr. LeMaistre does, that it should be optional.

We readily admit that some States, and Ms. Siebert has just alluded to this, have a problem with the legislature, where she couldn't get this bill passed. Other States do not require it, Illinois does not require it. But they do have the 108-percent rule as Ms. Siebert does.

My home State requires insurance. So as the president of the State Bank Supervisors, I have an obligation to represent all of them.

Senator McIntyre. Well, Mr. Dunn, Ms. Siebert, can you please tell us what your current thinking is regarding the creation of a free international banking zone in New York and conceivably in other locations as well, and whether or not it has any bearing on this legislation?

Ms. Siebert. I think the two are separate. The shuttle I hope to take is because the Governor is having a ceremony to sign our tax legislation on this. My department did a lot of work on this, we worked with the department of taxation. I do not believe that it has bearing on this legislation. I believe that there is a problem, there is no reason that we should establish arbitrary rules that force our banks to go outside of the country to do business.

I have an office in London, I just visited it. The New York State chartered banks—I am talking about the clearing house banks, I do not have Chase Bank or Citicorp, but I have Manufacturers Hanover, Morgan, Chemical, Irving, Bank of New York, Bankers Trust, Marine Midland, and there may be one or two I missed, but we have $25 billion in assets in London alone, excluding what they have invested in the Merchant banks there. We have an equal amount of assets spread around the continent as I studied the figures.

Our banks have tens of billions of dollars in the Grand Cayman Island. Some of this business would be done in New York, which has established rules, which may be arbitrary, but we have forced some of our banks to do some of their business abroad, either for tax reasons or because of the Federal Reserve regulations. The business is being done abroad, it will be done abroad, it would be easier for me to examine it if it were in New York. I have 6 fulltime examiners in London, I have a team of maybe 15 going over July 1, because we start to examine a couple of our money market banks there. So I will have 19 people, I believe, going into our large banks like Morgan. I would like to see as much of that business as possible brought back into this country.

That means that if New York City has to give up its taxes, New York State has to give up its taxes, because in New York State the tax ratio, I believe, is 62 percent, where in London it is 52 percent, and if you do it in Grand Cayman, it is 48 percent.

So that we addressed and took care of it in the bill the Governor signed yesterday. The rest is up to the Federal Reserve as far as interest rate limitations on deposits on short-term accounts, accounts under 30, plus the reserve requirements.

There is no reason that my banks should be operating abroad paying taxes to some countries abroad, when it could be done in New York.

I also believe if we have this domestic international free zone, I would expect the same privileges would be offered in Florida, Illinois, California, some of these States have been to see us, we are working with them, and I would expect to see some of the foreign banks bring employment into New York, because it is cheaper for them to have employees in New York now than it is in London or Zurich or Hamburg or many of the different places around the world.

Senator McIntyre. I would be curious on my own part to know how big is your agency?

Ms. Siebert. I have 350 examiners and about 550 people.

Senator McIntyre. Would you say that again?

Ms. Siebert. I have 350 examiners and the total agency is about 550.

Senator McIntyre. 400 plus 200?

Ms. Siebert. Yes.

Senator McIntyre. It is slightly larger than New Hampshire's.

Ms. Siebert. Our assets under our own regulation exceed $400 billion, encompassing 19 different industries. We run from check cashers to travelers checks to State-chartered credit unions. State-chartered S. & L.'s, to the commercial banks, to the foreign banks. We have quite a collection.

Senator McIntyre. When are you going to have NOW accounts?

Ms. Siebert. When they give them to us.

Senator McIntyre. Well, they are coming.

As soon as Senator Proxmire is through questioning you, Ms. Siebert, you can be excused any time.

Senator Proxmire. I will be very fast, I know you have to catch the shuttle. And I assume your responses will be equally quick.

New York may give us a picture of the kind of banking we may have throughout the country in a few years. I understand 30 percent of your big loans are made by foreign banks in New York. The foreign banks also have kept your banks on their toes in foreign exchange. They have also created a situation in New York that is more competitive perhaps than any other place in the country.

I think that is to everybody's benefit.

Now you say you represent the depositing public. Do you feel that foreign bank activity has been wholly constructive and desirable? Or do you think there is any element here we have to be concerned about?

Ms. Siebert. I have not personally, since I have been in office, seen anything that is undesirable. I find that growth of the foreign banks has made our banks more competitive.

Senator Proxmire. They have served your importers and exporters, encouraged that kind of activity?

Ms. Siebert. Yes.

Senator Proxmire. More than they would if you hadn't had them active?

Ms. Siebert. I believe some of our companies in terms of importing and exporting, find it easy to do business with a bank that is owned or operated abroad. I also have a very strong feeling that if we do not give the foreign banks reciprocity, there will be some retaliation. And I believe the assets of my New York State chartered banks abroad exceed $50 or $60 billion, and that is excluding the national banks in New York.

Senator Proxmire. Then my question is one that is in Mr. Dunn's statement, why not let all of the United States in on the act? Why wouldn't it be good for Atlanta, Milwaukee, Cleveland, to get into that? You would have to permit branching, and make that free zone universal.

Ms. SIEBERT. I am in favor of that.

Senator PROXMIRE. You mean the latter——

Ms. SIEBERT. I am in favor of both.

Senator PROXMIRE. I am just talking about letting the foreign banks branch, not talking about our banks.

Ms. SIEBERT. We have been in favor of both of those two.

Senator PROXMIRE. You would be in favor of permitting branching to continue as it is under the present law for foreign banks?

Ms. SIEBERT. Yes.

Senator PROXMIRE. Absent any action on our part to amend the McFadden Act as far as branching by domestic American banks?

Ms. SIEBERT. Yes. We have taken that position, sir, as a statesman, because we realize that 90, 95, or 98 percent of the foreign banks coming in will choose New York as their headquarters. We think it is totally unfair that the other States be denied the benefits of the foreign trade, the capital, the expertise, the knowledge of countries abroad.

Senator PROXMIRE. And you are not concerned, even though you occupy a position with respect to jurisdiction over by far the biggest banking group of any State commissioner in the country. You are not concerned about the adverse effect it will have on our domestic banks. Even though foreign banks have been gaining at a tremendous rate, more rapidly than our banks have in the last 5 or 6 years?

Ms. SIEBERT. Well, of course simultaneously, our banks have been growing abroad.

Senator PROXMIRE. Thank you very much.

Ms. SIEBERT. If I may answer one other question or make a comment, if we open in Germany, we have access, our banks have access to the entire country of Germany. If we go into England, we have access to more than just one city.

Senator PROXMIRE. Is there any country where our banks are limited in their access to the entire country the way the banks here might be limited?

Ms. SIEBERT. We will not approve a branch unless there is reciprocity.

Senator PROXMIRE. My question is do you know of any country anywhere that limits our banks' operation, except, of course, Canada, which we have just been informed doesn't let our banks in at all?

Ms. SIEBERT. No. Canada has a new bank coming, but Canada has limitations. We have a gentleman's agreement with Canada, where they cannot solicit public deposits, and they can only do a certain kind of business.

Senator PROXMIRE. Thank you very much.

Senator MCINTYRE. Thank you for coming here and giving us the benefit of your experience in New York with these problems.

Ms. SIEBERT. Thank you very much.

Senator MCINTYRE. Now, Mr. Dunn.

STATEMENT OF E. D. "JACK" DUNN, COMMISSIONER OF BANKING AND FINANCE, STATE OF GEORGIA, AND NATIONAL PRESIDENT, CONFERENCE OF STATE BANK SUPERVISORS

Senator MCINTYRE. I am sorry we had to interupt, but sometimes the witnesses are under constraint of time.

Mr. DUNN. Mr. Chairman, I understand, and my plane doesn't leave until 5 o'clock, so I have no problem.

Senator McINTYRE. Fine, go right ahead.

Mr. DUNN. I have several articles and pamphlets that I would like to submit for the record. One, that has not been widely publicized and in which that this committee would probably be interested, was published by the Conference of State Bank Supervisors in 1974. CSBS commissioned a study on optional affiliation with the Federal Reserve System for reserve purposes. This study showed that optional affiliation is consistent with effective monetary policy.*

I would like to submit that for the record. And I would also like to submit for the record an advertisement that was in a Chicago paper last year on "National Banking Redefined."

Mr. Chairman, I will keep my oral presentation to you as brief as possible inasmuch as you already have my written presentation.

Senator McINTYRE. Your full statement will appear in the record in its entirety.

[The oral presentation of Mr. Dunn and the text of a full page advertisement from the Wall Street Journal follow:]

SUMMARY

Mr. Chairman and members of this Subcommittee, I am Jack Dunn, Commissioner of Banking and Finance for the State of Georgia and President of the Conference of State Bank Supervisors, on whose behalf I am testifying today.

In summarizing the statement which the Conference has filed with this Subcommittee, I would like to emphasize a number of points:

(1) CSBS supports this bill. With a few modifications, CSBS believes this bill represents a straightforward, workable approach to the objectives of providing a greater federal presence in connection with the regulation of foreign-owned banks operating in this country, as well as affording equitable treatment to such banks in relation to our own domestic commercial and mutual banking institutions.

(2) CSBS supports a federal charter option which Section 2 of the bill would provide for foreign banks operating in this country. However, CSBS would oppose a federal charter or license carrying with it authority to organize and operate within a state irrespective of state law. A state should have authority to determine the nature of banking organizations within its borders.

(3) We also support Section 5 which would retain the authority of a state to invite into its borders a foreign-owned branch that might also be operating in another state. This is in our national interests. A one-state limit on foreign bank branches would result in a virtual monopoly of foreign banking activities by New York and California, to the detriment of other states which might want to increase their roles in international banking matters.

(4) We reject the contention made by a few that foreign bank branches enjoy an unfair competitive advantage over our domestic banks because the former may have a multi-state presence while our domestic commercial banks cannot branch interstate. The multi-state presence of foreign bank branches is limited principally to two states—New York and Illinois. There are 64 foreign bank branches in New York and 29 in Chicago. Most of the branches in Chicago are also in New York simply because nearly all foreign banking institutions operating in this country have a presence in New York. There are two foreign bank branches in Massachusetts, two in Oregon and eight in Washington. Thus, it can be seen that this multi-state activity is very limited in geographic spread and in the numbers of institutions involved. Furthermore, this activity is in accordance with positive state action.

(5) The opportunity for full service banking across state lines is presently available to domestic banks under Sec. 3(d) of the Bank Holding Company Act. That section permits the acquisition or establishment of full service commercial banks by bank holding companies if state law contains positive language to that effect. Maine and Iowa have extended invitations to out-of-state domestic banks,

*Printed in an earlier hearing of the subcommittee, titled "NOW Accounts, Federal Reserve Membership and Related Issues," June 20–23, 1977.

and New York State has introduced legislation at various times to permit reciprocal interstate banking for domestic banks. States have not extended interstate branching privileges to domestic banks largely because states believe that domestic banks located within their own boundaries can and do adequately serve the banking needs of their residents without help from domestic banks in other states.

(6) Our domestic banks through their bank holding company bank and nonbank affiliates conduct far more de facto interstate banking-type activities than do foreign bank branches. The "American Banker" newspaper in a series of articles in 1975–1976, dealing with 13 of our large domestic banks and their banks and bank holding companies, revealed that these 13 banks alone have some 1,483 offices which conduct a bank-related type of business in some 43 states outside the state in which they are headquartered. Such activities include Edge Act corporations which handle international banking matters for domestic banks, and loan production offices which solicit and initiate the processing of loans throughout the country. Furthermore, the interstate deposit-generating function of our domestic correspondent banking system makes insignificant by any equitable treatment criterion the interstate deposit-taking function of foreign banking branches operating in this country.

(7) The real question in the interstate branching issue is not competitive equality between foreign and domestic banks, but competitive equality among the states themselves. States other than New York and California should have the freedom to compete for the opportunity of attracting a foreign bank branch, regardless of whether such branch is also operating in another state, if a state believes this to be in the interests of its residents.

(8) We believe Section 7 is more reasonable in its treatment of foreign banking institutions and their relationships with the Fed than earlier versions of the bill. However, even in its present form it discriminates against state-chartered foreign banking institutions with worldwide assets of $1 billion or more by requiring such institutions to have their reserves set by the Fed. There is no size test for our domestic state-chartered banks. There should be no such test for state-chartered foreign banks. Furthermore, agencies and commercial lending companies do not take deposits and should not be included in the reserve-setting provisions of this bill.

(9) The Fed has made no clear showing it needs reserve-setting authority over all state-chartered domestic banks—let alone over state-chartered foreign banks—in carrying out its monetary policy responsibilities. Furthermore, all states with foreign branches apply reserve requirements which are nearly equivalent to those of domestic banks. CSBS believes this issue should be separated from the bill and made the subject of separate hearings. It should not be tied to a bill to regulate foreign banks.

(10) CSBS supports Section 7(c)(1) of this bill. State banking departments will be pleased to furnish the Fed with copies of examination and related reports over state-chartered foreign banking institutions. Further, if FDIC insurance is provided for state-chartered foreign bank branches, as proposed in this bill, then the FDIC would examine such institution's connection with its insuring responsibilities. Therefore, there would be no need for adding the Fed as the second federal layer of oversight in the examination area as some would propose. In addition, the Fed. under Sec. 7(d) could report to Congress within two years after implementation of this bill, any recommendations to add to the safety and soundness of foreign banks. In view of the foregoing, there is no reason for the Fed to exercise direct and duplicative examination oversight over state-chartered foreign banking institutions.

(11) CSBS believes FDIC insurance should be optional for states in which foreign bank branches operate.

Thank you Mr. Chairman.

[From the Wall Street Journal, January 11, 1977]

NATIONAL BANKING REDEFINED

If your company markets nationally, you need a bank that performs nationwide—at the grass roots as well as in the money centers.

Here's how First Chicago, organized since 1904 on lines that make it a truly national institution, serves your company nationwide with 9 regional offices across **America.**

Wherever your company is located in America, there are important advantages to be gained when you bank with a truly national bank.

What do we mean by national bank? We mean something more than the technical term that describes banks organized with the approval of the Comptroller of the Currency. By national bank we mean a bank that is truly national in scope and capability, that can provide corporate banking services as a matter of course, to customers located anywhere in the nation.

To be national, a bank has to work at it. Here's what we've done and are doing to bring true national banking to you.

NATIONAL BANKING ON YOUR OWN HOME GROUND

Today, on Peacetree Street in Atlanta, on Fifth Avenue in New York, in Baltimore, Boston, Cleveland, Houston, Kansas City, Los Angeles and San Francisco, nine expertly staffed First Chicago regional offices are bringing national banking services to companies of all sizes.

The services made available by these nine offices are as broad and varied as banking itself, and you can pick and choose among them according to your company's needs.

Wherever you are located, whatever services you need, it's important to know there's a First Chicago regional office capable of bringing you the total resources of a $19 billion banking corporation.

INDUSTRY EXPERTISE KEEPS YOU IN FINANCIAL TOUCH WITH THE NATION

To get the most from a banking relationship, you need a bank that understands the ins and outs of your business. Not only how it operates on your own home grounds, but how it operates across the nation.

In 1904 we organized our loan divisions to service specific industries instead of the geographical areas those industries were located in.

Today First Chicago's nationwide industry expertise is readily available through our regional offices. Whether you're based in a small town or in a money-center city. First Chicago can serve your company's needs for current, firsthand financial information on any of scores of major businesses and industries across the nation.

NATIONAL BANKING BY FIRST CHICAGO SPREADS MONEY-CENTER DOLLARS NATIONWIDE

For companies far removed from money-center cities, First Chicago's national banking can bring new and necessary dependability to your borrowings.

And there are other money-center resources available. Working through your regional office, First Chicago's Corporate Finance Division acts in an advisory capacity to help you get 10- to 25-year private placement money. Our First Capital Corporation will invest in growing companies that need venture capital. Our First Chicago Investment Corporation invests in leveraged buy-outs, preferred stock issues, financing of acquisitions. Our First Chicago Leasing Corporation enables your company to expand quickly without borrowing, by leasing plant and equipment.

This, too, is national banking by First Chicago. Money-center banking in your own backyard.

HOW TO "SCRAPE UP" THOUSANDS OF FREE DOLLARS A YEAR

$35,500, $32,600, $684,000, $53,800. These dollar amounts are annual net savings achieved by companies instituting First Chicago cash management systems.

Your First Chicago regional office can put the most sophisticated cash management services to work for you right now, including techniques developed within the last two years to serve many of the nation's 100 top corporations.

NATIONAL BANKING DELIVERS THE WORLD TO YOUR DOORSTEP

American exports, even if you exclude wheat, are on the increase. Overseas activity—including international trade and the establishment of foreign subsidiaries—may offer your company the single most productive opportunity for sustained, solid growth.

First Chicago's offices deliver an extensive international capability right to your doorstep. They can do so because First Chicago is more than just a money-center bank. It's a leading international bank, too, with 81 facilities in 37 countries (for the complete list, see the bottom of next column).

The national bank. It has become more than just a technical term with First Chicago's national banking now serving more than 10,000 customers across America.

FOR ON-THE-SCENE NATIONAL BANKING SERVICES CALL THE FIRST CHICAGO REGIONAL OFFICE NEAREST YOU

Atlanta, Norman McClave, (404) 892–0966.
Baltimore, Robert Probasco, (301) 547–8700.
Boston, Daniel Holland, (617) 247–4040.
Cleveland, William Burk, (216) 781–0900.
Houston, Bob Street, (713) 233–8851.
Kansas City, Russell Ewert, (816) 471–3880.
Los Angeles, James Giffin, (213) 628–0234.
New York, Donald Glickman, (212) 751–3910.
San Francisco, Ronald Zech, (415) 788–4311.

FIRST-HAND INFORMATION, FROM 37 COUNTRIES

North America: Atlanta; Baltimore; Boston; Chicago; Cleveland; Houston; Kansas City; Los Angeles; Mexico City; New York; San Francisco; Toronto. Europe: Amsterdam; Antwerp; Athens; Bristol; Brussels; Cardiff, Channel Islands; Dublin; Düsseldorf; Edinburgh; Frankfurt; Geneva; Leicester; London Madrid; Milan; Munich; Newcastle; Paris; Piraeus; Rome; Rotterdam; Stockholm; Warsaw. Middle East: Abu Dhabi; Beirut; Cairo; Dubai; Sharjah; Tehran. Africa: Lagos; Nairobi. Latin America: Bogota, Caracas; Guatemala City; Panama City; São Paulo. Caribbean: Bridgetown; Cayman Islands; Kingston; Montego Bay; Ocho Rios; Port-au-Prince. Asia: Bangkok; Hong Kong; Jakarta; Seoul; Singapore; Tokyo. Pacific: Manila; Melbourne; Sydney.

First Chicago, The First National Bank of Chicago. Productive banking for productive businesses.

Mr. DUNN. The last point in my summary I have already answered in answer to a question about our stance on mandatory FDIC insurance, so I will not repeat that, Mr. Chairman.

I would like to add just one thing, Mr. Chairman. I think there has been a lot of misunderstanding by some people and by the press as to whether American banks, domestic banks, are being treated equally with the foreign banks.

I contend that they are. Senator Stevenson has brought up a very valid point that I had not heard before; that is under the Edge Act our domestic banks have been restricted.

I appreciate the opportunity, Mr. Chairman, to present the views of CSBS and I will be glad to answer any questions you may have.

[The complete statement of Mr. Dunn follows:]

STATEMENT OF MR. E. D. (JACK) DUNN ON BEHALF OF THE CONFERENCE OF STATE BANK SUPERVISORS

Mr. Chairman, it is a pleasure to appear before you and the members of this Subcommittee on H.R. 10899. I am Jack Dunn, Commissioner of Banking and Finance for the State of Georgia and President of the Conference of State Bank Supervisors, on whose behalf I am testifying today.

The interest of the Congress in foreign banking activities in this country is understandable. Foreign banks have been coming to the United States for approximately a hundred years and their growth in this country over the past few years has been significant. According to data from the Federal Reserve System, as of March 1978, there were 268 foreign-owned banking entities operating in this country with assets totaling approximately $96 billion. However, impressive as these figures are, it should be recognized that at year-end 1977, according to data from the Federal Reserve System, there were 730 branches of our domestic banks operating overseas. The assets of the overseas branches of member banks alone constituted $227.9 billion, or approximately two and one-half times more than the assets of all foreign banking entities in the U.S. Furthermore, the $96 billion in assets held by all foreign banking institutions in this country constitutes about

8.4% of total assets of $1,136 billion held by our domestic commercial banking system.

Foreign banking institutions have provided unique and necessary services as well as facilitated the presence abroad of our domestic banks. Their record of cooperation with state and federal officials has been excellent, and their adherence to prudent banking practices, under state supervision, has been impressive. Their presence here has served well our national interests.

The Conference of State Bank Supervisors, whose supervisory members constitute the primary chartering and regulatory source for this country's nearly 10,000 state-chartered commercial and mutual savings banks is supportive of this bill. With only a few modifications, which I shall outline and explain, CSBS believes this bill represents a straightforward and workable approach to the objectives of providing a greater federal presence in connection with the regulation of foreign-owned banks in this country, as well as affording equitable treatment of such banks in relation to our own domestic commercial and mutual banking institutions.

FEDERAL CHARTER OPTION

CSBS, for example, supports Section 2 which would provide a federal charter option for foreign banking institutions operating in our country. This is but an extension of the concept of duality which characterizes our decentralized domestic banking system. However, CSBS would oppose a federal charter or license for foreign banking institutions carrying with it the authority to organize and operate within a state irrespective of state law. It is the position of CSBS that a state should have the authority to determine the nature of banking organizations within is borders in a manner which it believes best serves the needs of its residents.

INTERSTATE OPERATIONS

The Conference also supports Section 5 of this House-passed bill which would permit a state to retain the auhtority it now has to invite into its borders a foreign-owned bank branch that might also be operating in another state. It is in our national interests to do this. A one-state limit on foreign bank branches (which was proposed in earlier versions of this bill) would result in a virtual monopoly of foreign banking activities in this country by New York and California, to the detriment of other states which might want to increase their roles in international banking matters. The reason is very simple. New York and California, as our country's leading money centers, would be by far the most compelling areas of operation for foreign banking institutions if faced with a one-state limitation for their presence.

There are a few who favor limiting the authority of states in this area of permitting foreign bank branches to have a multi-state presence. The argument is made by such proponents that the multi-state presence permits foreign bank branches to enjoy an unfair competitive advantage over our domestic banks; that states under the present situation are treating foreign banking institutions better than our domestic commercial banks are treated. This simply is not so! First of all, the multi-state presence of foreign bank branches is confined principally to two states—New York and Illinois, where all branches are limited to the Loop area of Chicago. There are 64 foreign bank branches in New York and 29 in Chicago. Most of the branches in Chicago are also located in New York. Nearly all foreign banking institutions operating in this country have a presence in New York, the world's leading financial center. There are two foreign bank branches located in Massachusetts, two in Oregon and eight in Washington. So, when put into its proper perspective, it can be seen that this multi-state activity is very limited in its geographic spread and in the number of institutions involved. This activity, furthermore, is accomplished in accordance with positive action by the states involved. The states have found it advantageous to invite foreign bank branches into their respective areas to stimulate international financial transactions occasioned by the presence of multi-national corporations, to serve the customers of such corporations and to perform other useful banking functions.

It should be recognized that the opportunity for full service banking across state lines is presently available to domestic banks by way of Section 3(d) of the Bank Holding Company Act. Section 3(d) permits the acquisition or establishment of full service commercial banks by bank holding companies if state law contains positive language to that effect. While no interstate branching of domestic commercial banks has resulted thus far from the foregoing provisions, the States of Maine and Iowa have extended invitations to out-of-state domestic banks, and New York State on several occasions, including 1978, has introduced legislation which would permit reciprocal interstate banking for domestic banks. More states have not extended interstate branching privileges to domestic banks largely because states believe, that domestic banks located within their own boundaries can and do adequately serve the domestic banking needs of their residents without help from domestic banks from other states.

In comparison to the limited geographic scope and the small number of foreign bank branches engaged in interstate activities, let us examine the *de facto* interstate banking activities of our domestic commercial banks. The *American Banker*, a leading financial newspaper, carried a series of articles during 1975–1976 dealing with the activities of 13 of our large domestic banks and their bank holding companies. What these articles show is that these 13 banks alone have some 1,483 offices which conduct a bank-related type of business in some 43 states outside the state in which they are headquartered. This includes Edge Act corporations which handle international banking matters for domestic banks, loan production offices which solicit and initiate the processing of loans throughout the country, and about 8 subsidiary banks which have been grandfathered or otherwise exempted under the Bank Holding Company Act.

Although most of these domestic interstate banking-type activities may not be deposit-taking in a technical sense, as a practical matter they generate deposits for their parent banks, they take deposit business away from local banks and they service such business in their parent banks' home state. Of the 13 banks noted in the "American Banker" articles, 13 were listed as engaging in mortgage banking activities; 12 were listed as engaging in consumer and sales finance; 11 in leasing activities; 9 in selling and reinsuring credit-related insurance; 8 in factoring; 6 in investment management advisory services, and in real estate advisory services; 5 were listed as providing venture capital to small business; 4 as handling computer services; 2 as providing trust services and marketing travelers checks. At least 1 of these 13 banks was also listed as providing credit card services, travel services and underwriting insurance. In fact, our large domestic banks through their bank holding company operations and their bank and nonbank subsidiaries conduct far more extensive interstate banking-type operations than do the relatively few multi-state foreign bank branches that are located primarily in New York and Chicago, Illinois. Further, the intersttae deposit-generating function of our domestic correspondent banking system is massive, although statistically unrecorded in conventionally-published data. This domestic bank interstate deposit-taking activity makes insignificant by any equitable treatment criterion the interstate deposit-taking function of foreign banking facilities operating in this country.

In the final analyses, the real question is not alone the issue of competitive equality between foreign and domestic banks, but competitive equality among the states themselves. It is the position of CSBS that states other than New York and California should have the freedom to compete for the opportunity of attracting a foreign bank branch, regarding of whether such branch might also be operating in another state (that state most likely being New York) if the state believes this to be in its interests and the interests of its residents. Section 5 of this bill would accomplish that objective and CSBS strongly supports the provisions of this section as now written.

AUTHORITY OF FEDERAL RESERVE SYSTEM

The Conference believes that Section 7 of the bill as now written is more reasonable in its treatment of foreign banking institutions and their relationships with the Federal Reserve System than earlier versions of the bill. However, the Conference must stress that even in its present form this section discriminates against state-chartered foreign banking institutions with worldwide assets of $1 billion or more. This section would require that state-chartered branches, agencies and commercial lending companies having worldwide assets of $1 billion or more have their reserve requirements set by the Fed. These reserve requirements would be imposed as an alleged prerequisite to the Fed's monetary policy obligations.

There is no such size test for our domestic state-chartered banks. Affiliation with the Federal Reserve System is optional for our domestic state-chartered banks regardless of size, and it should be optional for foreign banking institutions. Size is not a proper criterion for imposing reserves. To carry this to its logical conclusion would require that all large domestic banks be affiliated with the Federal Reserve System. Furthermore, agencies and commercial lending companies do not take domestic deposits and should not be included in the reserve-setting provisions of this bill.

In addition to the foregoing, and of more importance, the Fed has made no clear showing that it needs reserve-setting authority over all state-chartered domestic banks—let alone over foreign banks—in connection with its monetary policy responsibilities. The Fed carries out its monetary policy responsibilities principally through its Federal Open Market Committee operations, the influence of which is felt by nonmember financial institutions as well as by member banks. I think anyone would be hard-pressed, for example, to prove that the tight money of 1974 did not affect nonmember institutions as severely as member banks.

In 1974 the Conference commissioned a study on the optional affiliation-monetary policy question. A copy of this study, which is being furnished for the record, states in part: [1]

"There is substantial agreement that the reserve measure most useful for control purposes is the monetary base (base money), which is defined as the net monetary liabilities of the Federal Government (*i.e.*, the Federal Reserve and the U.S. Treasury). . . . Growth of the monetary base is essentially determined by Federal Reserve holdings of U.S. government securities, the major source component of the base. Although views differ on the precision with which the monetary base can be regulated, the consensus among monetary economists is that the size can be set within very close tolerance on a monthly basis."

The Federal Reserve Board for a number of years has been attempting unsuccessfully to extend its reserve-setting authority over nonmember depository institutions, largely on the premise that it needs such authority for its monetary policy role. CSBS believes this issue, which is of considerable importance to the dual banking system, should be decided on its merits in separate hearings and not tied to the issue of regulating foreign banking institutions that choose to operate in this country under a state charter or license. There has been no showing by the Federal Reserve that optional affiliation with the System by our domestic state-chartered commercial banks has impeded the Fed in carrying out its monetary policy objectives—let alone that state-chartered foreign banks operating here have done so.

All states with branches of foreign banks apply reserve requirements to them which are nearly equivalent to those of domestic state-chartered banks. Even in Illinois, where there are no state reserve requirements for domestic banks, branches of foreign banks are required to maintain reserves equal to those imposed by the Federal Reserve on member banks. However, these reserves are not in sterile form as required by the Fed for member banks. In New York where 64 foreign branches operate, in addition to reserves, these branches must maintain a special liquidity reserve in the form of five percent of assets segregated and maintained under a restricted deposit agreement subject to withdrawal only with the consent of the New York Superintendent of Banks. This reserve is over and above vault cash and other liquidity reserves. Thus, in actual practice foreign branch reserves may well be higher than those of domestic banks.

Section 7(c)(1) of this bill would require that the applicable state banking authorities, when required by the Federal Reserve, shall submit to the Board a copy of any examination report made by the applicable state bank supervisory authority on each branch or agency of a foreign bank, and on each commercial lending company controlled by one or more foreign banks. The Fed is also authorized to require the submission of additional information regarding examination reports submitted by state banking authorities under this subsection.

The Conference is supportive of the stated intent of such provisions. States where foreign banking institutions are located possess strong, competent state banking departments. The history of foreign banking operations in this country attests to the quality of supervisory oversight afforded these state-chartered institutions, as well as to the disposition of such institutions to abide by our

[1] The study by Professors Ross M. Robertson and Almarin Phillips entitled, "Optional Affiliation with the Federal Reserve System for Reserve Purposes is Consistent with Effective Monetary Policy," holds that while major monetary policy weaknesses have been revealed in the recent past, and should be anticipated in the future, optional affiliation of some banks with the Fed for reserve purposes cannot be considered high on the list of factors contributing to these weaknesses, if eligible at all for inclusion. Reserve and the U.S. Treasury). . . . Growth of the monetary base is essentially determined by Federal Reserve holdings of U.S. government securities, the major source component of the base. Although views differ on the precision with which the monetary base can be regulated, the consensus among monetary economists is that the size can be set within very close tolerance on a monthly basis."

laws. In this connection, during hearings on S. 958, the Foreign Banking Act of 1975, former Federal Reserve Board Vice Chairman George Mitchell stated in part:

"There is nothing to indicate that foreign banks are 'abusing' their powers in the sense that they are using the opportunities available to them under the present system to engage in any improper or unsound banking practices. On the contrary, it has been the experience of the Board that foreign banks operating in the United States have scrupulously complied with existing U.S. laws and regulations and have been generally cooperative in their dealings with the Board."

CSBS believes the provisions of Section 7(c)(1) are adequate; that there is no need for the Federal Reserve Board to exercise direct examination powers over these state-chartered foreign banking institutions, as some would propose. The present provisions of this Section of the bill assure that the Fed will have ample information in a prompt manner from the respective state banking departments on the safety and soundness of state-chartered foreign banking institutions operating in this country. Furthermore, if FDIC insurance is provided for all federally-chartered foreign branches, or for state-chartered foreign branches in states which require FDIC insurance for domestic banks—as proposed in this bill—the FDIC would exercise examination powers consistent with its insurance responsibilities. As a consequence there would not appear to be a need for adding the Fed as a second layer of federal oversight in the examination area.

In addition, Section 7(d) of this bill would provide that on or before two years after enactment, the Fed, after consultation with the appropriate state bank supervisory authorities, shall report to the Congressional Banking Committees its recommendations with respect to the implementation of the bill, including any recommended requirements to assure the safety and soundness of such banking operations. Certainly these latter provisions, together with the power given the Fed to require examination and related reports from state banking departments, should be sufficient for the Fed in carrying out any of its legitimate responsibilities, without the need for the Fed to exercise direct and duplicative examination oversight.

FDIC INSURANCE

Section 6 of this bill would provide that federal branches of foreign-owned banks must be insured by the FDIC, and that state-chartered branches must have such insurance to operate in any state in which the deposits of a domestic state-chartered bank would be required to be insured.[2]

There are differences of views among the state bank supervisory members on the necessity of FDIC insurance for state-chartered foreign bank branches. The New York Banking Department, for example, has expressed the desire to require FDIC insurance for state-chartered foreign bank branches operating in that State. California's state laws require FDIC insurance as a prerequisite for deposit-taking operations by foreign banking institutions. Other supervisory members do not believe FDIC insurance to be necessary. Because the FDIC has not in the past insured deposits of foreign branches, states have resorted to various statutory or legal substitutes and approaches to assure safety of deposits. The statutory form is generally patterned after New York Banking Law (Sec. 202) which requires:

"1. (a) Upon opening a branch and thereafter, a foreign banking corporation . . . shall keep on deposit . . . with such banks or trust companies or private bankers or national banks in the State of New York as such foreign banking corporation may designate and the Superintendent may approve, interest-bearing stocks and bonds, notes, debentures, or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States, or of this State, or of a city, county, town, village, school district, or instrumentality of this State or guaranteed by this State, or dollar deposits, or obligations of the International Bank of Reconstruction and Development or obligations issued by the Inter-American Development Bank, or obligations of the Asian Development Bank, to an aggregate amount . . . of not less than one hundred thousand dollars; provided, however, that the Superintendent may from time to time require that the assets deposited . . . may be maintained by the foreign banking corporation

[2] Foreign-owned banks are currently in California, Florida, Georgia, Hawaii, Illinois, Massachusetts, New York, Oregon and Washington. All of these states require FDIC insurance for state-chartered domestic banks either by statute or bank department policy.

at such amount as he shall deem necessary or desirable for the maintenance of a sound financial condition, the protection of depositors and the public interest, and to maintain public confidence in the business of such branch or branches. . . .

"2. Each foreign banking corporation shall hold in this State currency, bonds, notes, debentures, drafts, bills of exchange or other evidences of indebtedness or other obligations payable in the United States or in United States funds or, with the prior approval of the Superintendent, in funds freely convertible into United States funds, in an amount which shall be not less than one hundred eight per centum of the aggregate amount of liabilities of such foreign banking corporation payable at or through its agency, agencies, branch or branches in this State . . . (The Superintendent) . . . may require such foreign banking corporation to deposit the assets required to be held in this State . . . with such banks or trust companies or private bankers or national banks located in this State, as such foreign banking corporation may designate and the Superintendent may approve."

The above requirement, generally known as the "108 per cent rule" has found its way into the statutes or practices of Illinois, Massachusetts and Washington. The State of Illinois requires foreign branches, in addition to the 108 per cent rule, to maintain interest-bearing obligations or dollar deposits of not less than the greater of $100,000 or five per cent of total liabilities, such obligations or deposits to be maintaned with a state or national bank.

The feeling has also been expressed by some state bank supervisors that foreign branches today are largely engaged in "wholesale" or international type of banking activities, and that because of this FDIC insurance would be unnecessary, particularly in view of deposit safeguards states have taken. Some supervisors have expressed the belief that foreign banks desirous of taking domestic retail deposits should organize as subsidiaries rather than engage in deposit-taking activities as branches. Others believe that FDIC insurance of branches would lead such entities to actively compete for retail domestic deposits, a field which foreign bank branches have largely avoided to date.

In view of the foregoing differences of opinion expressed by state bank supervisors, opinions largely reflective of conditions unique to their respective areas, CSBS believes FDIC insurance should be optional for states in which foreign branches operate.

Thank you Mr. Chairman for this opportunity to present the views of CSBS.

Senator McIntyre. Thank you, Mr. Dunn. How do you respond to the suggestion of the Federal Reserve that multi-State restrictions pertain primarily to branches, leaving agencies free to develop on a multi-State basis unencumbered by this legislation?

Mr. Dunn. Mr. Chairman, agencies are not depository facilities. We have seven agencies now in the State of Georgia.

Let me correct that. We have five agencies and two representative offices. If they are not deposit taking, then I see no problem with their multi-State presence.

However, we in the State of Georgia would like the privilege left to us in the future, to have foreign bank branches, if we ever decide that it would be advantageous for the citizens of Georgia to have branches that we be allowed to have branches.

Senator McIntyre. How do you respond to the argument of the Federal Reserve that the need for primary regulatory authority for foreign banks is heightened by the granting of access to the discount window for banks maintaining reserves with the Federal Reserve?

Mr. Dunn. Mr. Chairman, I have serious problems with that part of the bill. I question the fact that the Federal Reserve has ever proven that they need many of the authorities that they keep asking for in section 7 of this bill.

Senator McIntyre. You have no problem with the Federal Reserve argument for reserve requirements on subsidiaries as well as branches, agencies or commercial lending companies?

Mr. Dunn. Yes, I do, Mr. Chairman. First of all I believe affiliation with the Fed for reserve-setting purposes should be optional for all

State-chartered foreign bank branches, and for foreign-owned banks that are organized as subsidiaries in this country. Affiliation with the Fed is optional for our domestic State-chartered banks and it should be so for State-chartered foreign branches. The $1 billion size test is not applied to our domestic State-chartered banks and it should not be applicable to foreign-owned State branches, or to foreign-owned banks that organize as State-chartered subsidiaries. These latter organizations are treated the same as any other domestic State-chartered bank with respect to supervision by States, and with respect to being required to have FDIC insurance. They should also be treated the same as other domestic State-chartered commercial banks with respect to affiliation with the Fed for reserve purposes.

With respect to agencies or commercial lending companies, these institutions do not take domestic deposits; they are not banks in the strict sense of the word and they should not have reserve requirements imposed on them by the Federal Reserve System.

Mr. Dunn. Mr. Chairman, domestic banks in effect are already doing that. Now Mr. Miller referred to a tri-State level of banking, and Mr. Heimann was talking about branching from State to State.

Our domestic banks are doing essentially this with loan production offices. This newpaper article that I have submitted for the record I think is very significant. This article was done a year ago, it comes out of a bank in Chicago, and the ad clearly says, and they refer to my home town of Atlanta: "National banks, own your own home grounds." Let me read a paragraph from it:

Today on Peachtree Street in Atlanta, on Fifth Avenue in New York, in Baltimore, Boston, Cleveland, Houston, Kansas City, Los Angeles and San Francisco, nine expertly staffed—

I won't mention the name of the bank—

regional offices are bringing the national banking services to companies of all sizes.

Senator McIntyre. With regard to the question of interstate branches, do you feel there may be some logic to restricting retail deposit taking, while leaving unaffected deposit taking which is fundamentally international or trade related?

Mr. Dunn. In our State, as I have mentioned, we only have agencies. I have no problem as far as a bank taking a deposit related to the business they are conductnig, which is basically international trade, if the State where these branches are located permit it and think it is in the best interests of the citizens of that State for them to be able to take the deposit, I have no problem with that.

But I think it should be left up to the State to determine what is best for their citizens.

Senator McIntyre. Senator Stevenson wanted to stay to ask you that same question on the Edge Act that he asked the other witnesses. But he will forward that question to you, so he can get an answer from your organization for the record before we close it.

Mr. Dunn. I appreciate that, Mr. Chairman, because he has come up with a very important question.

[The following information was received for the record:]

CONFERENCE OF STATE BANK SUPERVISORS,
Washington, D.C., June 30, 1978.

HON. ADLAI E. STEVENSON,
Russell Building,
Washington, D.C.

DEAR SENATOR STEVENSON: I appreciate receiving your letter of June 27 containing your proposal for restricting the domestic deposit-taking powers of foreign bank branches operating outside of their designated home state.

Your suggestions clearly reflect a sincere desire to assure competitive parity between foreign bank branches and our commercial domestic banks in an operating area that is subject to much misunderstanding, as well as a sensitivity on your part to the ambitions of a number of states to enlarge their roles in the area of international banking.

In your letter you point out that you regret you were not present during the oral presentation of Mr. E. D. "Jack" Dunn in behalf of the Conference of State Bank Supervisors. I also regret this because I believe Mr. Dunn's oral remarks as well as the written statement of the Conference refute the contention that foreign bank branches enjoy a significant and unfair competitive advantage over domestic banks because of the interstate deposit-taking powers of the former institutions.

Mr. Dunn, I believe, placed in propser perspective the limited geographic scope of the multi-state presence of foreign branches. In spite of the belief of some that foreign bank branches have established a multi-state presence throughout this country, the only significance secondary state in which foreign bank branches are operating is Illinois, where there are 29 branches which under Illinois law are confined to the Loop area of Chicago. Most of the foreign bank branches in Chicago have a branch also present in New York. Nearly every foreign bank has a presence in New York, because it is the world's leading financial center. There are two foreign bank branches in Massachusetts, two in Oregon and eight in Washington. From the above, it can be seen that the geographical spread of foreign bank branches is very limited and the number of such institutions with a multi-state presence are relatively few.

In contrast to the limited secondary state presence of foreign bank branches, which, incidentally, has been accomplished only by positive state action, Mr. Dunn briefly reviewed the extensive bank-related activities of thirteen banks and bank holding companies that were featured in a series of American Banker articles in 1975-1976, copies of which are attached. The articles show that the thirteen banks and bank holding companies in question have some 1,483 offices which conduct a bank-related type of business in some 43 states outside the state in which they are headquartered. This includes Edge Act corporations and loan production offices. Of the 13 banking institutions noted in the American Banker articles, 13 were listed as engaging in mortgage banking activities; 12 as engaging in consumer and sales finance; 11 in leasing activities; 9 in selling and reinsuring credit-related insurance; 8 in factoring; 6 in investment management advisory services, and in real estate advisory services; 5 were listed as providing venture capital to small business; 4 as handling computer services; 2 as providing trust services and marketing travelers checks.

While it may be said that the above activities are not direct deposit-taking activities and cannot be compared with the deposit-gathering activities of foreign branches, the operations which I have summarized do generate deposits for the banks involved. Of even greater importance from the deposit-taking standpoint is the massive amount of out-of-state deposits obtained by our domestic banks through their correspondent operations, plus financing arrangements with out-of-state businesses. These interstate deposit-taking functions make insignificant the interstate deposit-gathering by foreign branches operating in this country.

In connection with the foregoing comments, I believe the Federal Reserve Board should be requested to survey 25–30 of our major domestic banks in New York and Chicago, or elsewhere, to determine what percentage of their deposits originate in states other than where the bank is headquartered. I believe such data would show just how insignificant in comparison is the interstate deposit-taking function of a relatively few foreign branches operating in more than one state.

Another question which should be borne in mind is the right of states to compete for the presence of a foreign bank branch which might be operating also in another state—that state most likely being New York. Under your proposal a foreign bank branch in a secondary state would have its domestic deposit-taking powers significantly curtailed. The net effect would be to make any secondary state less attractive to the foreign bank branch. This is an unfortunate consequence of your proposal; it would not permit all states to compete on an equal basis with New York in the international banking field. If, for example, Florida or Georgia at some time in the futrue should decide to permit the entry of a foreign bank branch, even though such branch might also be operating in another state; e.g. New York, federal law should not mandate that such branch have lesser powers than those authorized for the branch in New York under state law. This would be a patent discrimination against the secondary state in its efforts to benefit its citizens through an increased role in the international commerce and banking areas, and it would be contrary to our national interests.

Sincerely,

Lawrence E. Kreider,
Executive Vice President-Economist.

Senator McIntyre. Well, Mr. Dunn, that will end our morning session, and we will be returning at 2 o'clock.

[Thereupon, at 12:40 p.m., the hearing was recessed, to reconvene at 2 p.m. the same day.]

AFTERNOON SESSION

Senator McIntyre. The subcommittee will come to order. Our first witness this afternoon is Mr. Robert B. Palmer, president, Bankers' Association for Foreign Trade.

Mr. Palmer.

Will you also introduce for the record your associates at the witness table with you?

STATEMENT OF ROBERT B. PALMER, PRESIDENT, BANKERS' ASSOCIATION FOR FOREIGN TRADE; ACCOMPANIED BY JAMES B. SOMMERS, VICE PRESIDENT, BANKERS' ASSOCIATION FOR FOREIGN TRADE; AND THOMAS L. FARMER, ESQ., PRATHER, SEEGER, DOOLITTLE, AND FARMER

Mr. Palmer. Thank you very much, Senator.

I am Robert Palmer, president of the Bankers' Association for Foreign Trade.

I am joined by James Sommers, executive vice president, North Carolina National Bank, and vice president of the Bankers' Association for Foreign Trade; and Mr. Thomas Farmer, of the law firm of Prather, Seeger, Doolittle, and Farmer, who is counsel to our association.

As I think you well know, the association is a very broad-based one, encompassing about 150 U.S. banks, essentially all of the American banks throughout the United States, including 56 cities, which conduct the vast majority of all the international banking done by the American banking community.

We are especially pleased that you invited us to testify here today and submit a statement, because this is an issue that we, and I think our industry, feels quite strongly about.

And, as you are probably aware, I think you have now received the prepared statement of the Association of Reserve City Bankers, which is another banking association of approximately 170 of the principal banks in the United States throughout the country. Their statement conforms precisely to our opinions on each of the key issues here.

And, I believe that you will shortly be receiving a statement from the American Bankers Association, which will also generally parallel our views on the key issues on the proposed legislation.

Our association has testified with regularity and with great consistency on this issue over the 4 or so years that it has been considered by at least one of the Houses of our Congress.

I mentioned that we have testified with great consistency, always based on two very basic principles that we think are totally appropriate to assure a sound and fully competitive, fair market place in this country for financial institutions, and therefore to the benefit of their customers.

Those principles are, first: Equal national treatment or mutual nondiscrimination, as it might be called, which in effect, to put it in laymen's language—means "when in Rome, do as the Romans do."

For foreign financial institutions which are active in the U.S. market, they would do so on the basis that the U.S. public has decided is a healthy one for competition in this market.

Secondly, we have always supporting the principle of grandfathering, which is to say those entities of foreign banks which are already in operation here, no matter what the function and no matter where located, should be fully grandfathered, even if this or other legislation should be enacted in the future which would make the foreign bank regulations more restrictive than they have been in the past.

As you know, probably the only thing that has really changed over the 4 years that we have been discussing this issue is that it has become increasingly important to resolve it and whether you hear about it in this committee room or discussions in the industry, on the street, in Business Week magazine, or in this morning's New York Times, the simple fact is that the presence of foreign banking institutions in this market has become increasingly large and increasingly important to the U.S. financial marketplace.

On balance, we are pleased by this, because we have always felt the United States should be a market which encouraged an active, equal, competitive opportunity for foreign banking institutions to bring their services to this market and to make them available to the customers of our banking industry.

We have in principle supported legislation along the lines that was not only passed by the House of Representatives in 1976, but draft legislation which was reported out of the House Banking Committee, the full committee, in February of this year.

We were, however, quite disappointed and quite concerned about the final bill passed by the House of Representatives because it simply did not follow the principle of mutual nondiscrimination or equal national treatment in one very important, I would say vital, area.

And, that has to do with the capability of foreign-based institutions to branch or create subsidiaries in a multistate banking environment, and therefore to take deposits in a multistate banking environment.

As you well know, the principle is quite simple in our business; deposits are the raw material with which we work. Deposits are money. If you don't take it in, you can't lend it out. You can't make it available to your customers.

There is no situation today, other than a very few grandfathered situations, in this country where American banks are taking bank deposits, the raw material of the industry, in a multistate environment.

There are cases where, under the bank holding company laws, American banks are active in a number of locations in factoring, consumer finance, mortgage banking, et cetera.

Yet I'm surprised that some of the previous testimony and some later testimony, at least from the statements I have read, do not point out the key fact that there is no interstate activity of American banks in one of the two classic functions of banking: the taking of deposits. Therefore, this locational question is of extreme importance to us. It is on this basis that we are making the heart of our testimony today and in our written statement.

The arguments that we hear against this position seem to fall into five categories, and I would like to run through them very quickly, because I think that they are all eminently answerable.

In fact, I think most of them have little rationale.

No. 1: We hear that the question of whether or not a bank should be located in a given State is an issue of States rights and therefore should be left totally to that State. That seems to run counter to the historic practices which have long governed bank regulation in this country; that is, the dual banking system, allowing either a Federal or State charter.

Within that framework, the banks having a Federal charter are limited to a single State; likewise, for State-chartered institutions since the various States and Federal authorization have worked in harmony so as not to permit American banks to expand across State lines in their direct banking functions, for example, deposit-taking facilities.

That has been judged for various reasons to be the sound principle under which this banking industry operates, and it would seem therefore that it would be appropriate to work within the same principle going forward with foreign banks, or at least until there should be any change in the domestic banking laws.

A second argument would be that which is referred to as the stalking horse; that is it is not appropriate to bring the foreign banks under the current laws regulating the American banks operating in this country, but, in fact, we should revise those laws, principally, the McFadden Act. That may be. It is an issue which essentially has a domestic focus, and our association is not the primary industry group to be speaking out.

We would only urge, though, that whenever the Congress turns its mind to that subject, it should conduct a full and open debate under the appropriate heading; that is, "What is the proper environment for locational capabilities of American financial institutions?" We should not allow ourselves to possibly have no choice but to end up with nationwide banking because one special group of institutions, through simple neglect or oversight of the banking laws and regulations, achieved that position and grew to be unduly strong because of it.

At that point, we might have no choice but to change the banking laws for the vast majority of other institutions operating under them.

Thirdly, we hear from some that legislation such as we are proposing, especially with a strong section 5, would be discriminatory; that it would be unduly restrictive against foreign banks.

This does not seem to be the case at all. It is simply one of putting foreign banking institutions on an equal footing with that of American banks.

There is nothing discriminatory about this. There is nothing anticompetitive. There is nothing that we are urging to be taken away from any of the participants or the customers of those participants in the banking community.

What we are simply saying is: it is appropriate to have the foreign banks operating on an equal footing with American banks, and by our logic that does not seem discriminatory.

A fourth argument is that the international banks, the foreign-based banks operating here, should be permitted to branch or create subsidiaries in a multitude of geographic locations across State borders because that would be helpful to a number of regions and cities attempting to develop as international banking, finance, and trade centers.

The position we have espoused all along would certainly allow that to happen, both through Edge Act corporations, which is a well proven method for American banks to expand and to develop international trade in all potential centers, and through the use of agencies, a capability which is now available to foreign banks on a multistate basis, and which we support.

As I understand from hearing the discussion this morning, there was a proposal from Senator Stevenson of the possibility of allowing some combination, if you will, of Edge Acts and agencies under the title of branches.

As we think of it in principle, we would be very much in agreement with that type of proposal, because it seems to agree to that which we have recommended all along, the ability to have Edge Act corporations and agencies going forward.

The final argument that we hear from time to time is that if Congress passes an International Banking Act with a strong section 5, it would possibly incense certain foreign governments, and they might consider or even implement some form of retaliation against American banks operating abroad.

The first thing I would say to this is that we have never heard any responsible foreign governmental official make such a statement.

But maybe more important is that there is simply no rationale for any sort of retaliatory activity. What we are doing, as stated earlier, is simply recommending the placing of the foreign banks on an equal footing with domestic-based institutions.

When an Englishman comes to this country and he breaks his arm and goes to the hospital, he pays the bill. He does not say that "it is discriminatory against me because I do not pay a direct medical bill at home where I'm a member of a national health system."

There would be no threat by him of retaliation against Americans who visit Britain where they play by the rules as they are written in Britain.

There is really no rationale for retaliation, and I think it is an unfortunate scare tactic that is being tried by some.

So, in summary, then, what we are simply saying is: One, it is time for a uniform regulatory environment in this country encompassing a segment of our industry which has grown rapidly and has the potential to do excellent things for the banking industry. Without proper regulation it also has the potential to be very unsettling.

I think it should encompass the principles of equal national treatment and grandfathering.

H.R. 10899 is heading in the right direction, but it falls far short in a very important area; that would be section 5, which seems to legitimatize the current lack of regulation in branching and complete banking activities. We urge that the Senate pass legislation which would change section 5 and strengthen it. Then we would support the legislation.

Otherwise, frankly, the vast majority of our membership simply do not—would not support the passage of legislation at this time, although there are a modest number of our members who would find the current draft acceptable.

[Complete statement of Mr. Palmer follows:]

STATEMENT OF
ROBERT B. PALMER
PRESIDENT
BANKERS' ASSOCIATION FOR FOREIGN TRADE
ON H.R. 10899
BEFORE THE
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
OF THE
SENATE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

JUNE 21, 1978

My name is Robert B. Palmer, and I am the President of the Bankers' Association for Foreign Trade. I am also Executive Vice President of the Philadelphia National Bank. I am accompanied by James B. Sommers, Vice President of the Association, who is also Executive Vice President of the North Carolina National Bank, and by the Association's counsel, Thomas L. Farmer, of the Washington law firm of Prather Seeger Doolittle and Farmer.

The Bankers' Association for Foreign Trade (BAFT) was founded in 1921. Today, BAFT's voting membership of 150 U.S. banks consists of banks in 56 cities located in 32 states, the District of Columbia and Puerto Rico, and includes almost every U.S. bank which has a significant international operation. The Association also provides non-voting membership to 89 foreign banks with operations in the United States.

Following World War II American Industry set the pace in a tremendous expansion of world trade and investment. During this period the U.S. dollar established its role as the principal reserve currency and medium of exchange for international transactions, and American banks expanded overseas to meet the needs of their customers and to take advantage of new opportunities to finance foreign commerce and investment. They opened representative offices and branches, established specialized subsidiaries, associated themselves with overseas ventures and participated substantially in the Euro-currency market. Similarly, non-U.S. banks expanded their international operations, including the establishment of agencies, branches and subsidiaries in the United States. The worldwide activities of BAFT member banks, both U.S. and foreign, contributed greatly to the growth of international trade, the improvement of living standards throughout the world, and the maintenance of peace through an orderly interdependent world economy.

As the American banking community has expanded into foreign financial markets it has not asked for, nor received, preferential treatment. Our aim in our markets has been mutual non-discrimination among U.S. and foreign banks. To demand more would be unrealistic and not in the spirit of the free enterprise system; to accept less would be a disservice to the American business community and ultimately the American public.

BAFT members strongly believe that the domestic banking environment should be one in which foreign banks are encouraged to participate, and to do so on a healthy and non-discriminating basis. This fosters competition among all institutions operating in this country and offers benefits to all users of bank services. As evidence of this, there are approximately 100 foreign banks performing financial activities here in at least six states, and by May 1977 they had achieved a penetration of more than 30 percent of the commercial and industrial loan markets in both New York and California. Also, the size and significance of their U.S. domestic presence has recently been magnified by the public announcements of the intention of three huge foreign banks to purchase control of three of our largest commercial banks. While our Association welcomes and encourages the increased activities of foreign banks in our market-place, we strongly object to their preferential regulatory treatment which makes much of it possible. As stated in the June 26, 1978, issue of Business Week Magazine, "Clearly the foreign banks owe much of their dramatic success to the competitive edge that U.S. law gives them over domestic institutions."

At present, there is virtually no uniform regulation of foreign banks operating here. Foreign banks are subject almost exclusively to state laws. This has led to uneveness of treatment, particularly with respect to multistate banking, securities and investment banking activity, reserve requirements deposit insurance, and ease of entry into U.S. markets.

As a result, the vast majority of our members support the passage of legislation this year which would effectively equalize the operating environment for both foreign and domestic banking activities in the U.S. Such legislation should be based on the principle of equal national treatment. At the same time, these banks believe that the principle of grandfathering should be employed for those operations of foreign banks which have been established here in full accord with prevailing laws and regulations.

Since 1973 this Association has worked actively, and has testified before Congressional Committees regularly and consistently for such legislation. Generally, our position has been similar to that of the Federal Reserve Board, and our efforts have been closely aligned with theirs over the period. We were pleased when legislation incorporating these principles was enacted by the House of Representatives in 1976 and was again reported out of the House Banking Committee in February of this year. However, the legislation later passed by the House and before you today was altered significantly on the House floor by the ommission of the amendment of Section V, thereby permitting foreign banks to operate a full banking business, including the taking of deposits, on a multistate basis in a manner denied to U.S. banks. Accordingly, H.R. 10899 does not enjoy the majority support of the Association's voting members.

I do want to advise the Committee that there is a small group of our membership, domiciled principally in New York, and accounting for a significant share of this country's international banking activities, which takes the position that the present regulatory environment is satisfactory and therefore requires no new legislation at this time.

Because our disapproval of H.R. 10899 applies principally to Section V, I will concentrate my remarks today on the issues involved therein. The two most basic functions of banking are the taking of deposits and the granting of loans. Within the present legal and regulatory environment, generally referred to as the "dual banking system", an American-based bank may engage in these activities under either a state or federal charter, but with only a very few exceptions, they are restricted in their deposit taking to one or more locations within the single state in which they are headquartered. Such is not the case for foreign-based banks which can and do operate through branches and or subisdiaries to take deposits in more than one state. We believe that it is partly due to this clear and significant discrepancy in our laws that led Federal Reserve Board Chairman G. William Miller to state in April that "we don't have a dual banking system, we have a tri-level banking system,.... there is a State banking system, there is a Federal banking system, and there is an International banking system."

The strength of our feeling on this issue is based on the simple fact that deposits are the basic raw material of our business; we trade in money, and if a bank doesn't take it in, it can't lend it out. When one group of banks has the ability to locate in several different key commercial, financial and population centers across this country it has a marked advantage in the competition for a growing and stable supply of deposits. Today probably the most important area of service for banks dealing with large U.S. corporations is cash management, and a bank's ability to provide this service efficiently is greatly enhanced if it can utilize its own branches or subsidiaries in numerous financial centers. This advantage would also apply to payroll handling and other financial services dispensed locally for corporations operating in multistate locations. And while many foreign banks are not concentrating on retail, or consumer banking in the U.S. today, some are already becoming active in major markets like New York and California, and in time more foreign banks may choose to do so. Clearly, this business can only be undertaken if the banks have full-service facilities in each local market.

Association members have heard several arguments for continuing and legitimatizing through legislation this current discrepancy in our banking laws and regulations, but we don't find them convincing, or even rational:

1) That this issue of foreign bank presence in any state is one of "states rights" and therefore should be left to the discretion of each individual state. For more than four decades the U.S. commercial banking industry has functioned within the "dual banking system" which, as stated earlier, permits operation under either a state or federal charter, but which, in practice, has limited full-service activities to a single state. To date neither the federal or state governments have tried to upset this modus operandi by chartering full-service banks for direct operation in more than a single state. Given this longstanding principle and the

smooth functioning of the banking system under it, we don't see the rationale for making an exception in the case of foreign-based banks, especially when such an exception results in decidedly preferential treatment for that group. Moreover, as stated by the Federal Reserve, there would be an underlying strength and stability to the entire domestic financial and monetary system if we could achieve essentially uniform regulatory treatment of all banks operating here.

2) That it would be wiser to lessen the current restrictions on multistate operations of U.S. banks rather than to place the foreign-based banks under the present laws governing our locational capabilities. This is in effect a request to revise or nullify the McFadden Act, which has played a primary role in shaping our industry for more than 40 years. Since this is a matter of purely domestic focus, our Association will not speak out on it except to recommend that we debate such a major proposal openly, on its merits for all users and suppliers of banking services. If it would be advantageous for our society to have a national banking system, and that may be the position of even a majority of our members, we should arrive at it through full and open debate culminating in positive Congressional action, and not find ourselves forced into that position because one group of participating institutions arrived there by lawful means and was able to obtain a marked advantage. Moreover, should that occur, the BAFT fears that an extreme reaction could be triggered that would force the foreign-based banks out of our markets, or into some secondary position, and this we would strongly oppose as it would be detrimental to all banks, domestic and foreign, and to their customers.

3) That legislation such as H.R. 10899, especially if it were to have a strong Section V as we propose, would be unfairly restrictive or discriminatory to the foreign-based banks operating here. This simply would not be true, as the legislation would be based on the principle of non-discrimination, or equal national treatment, which would put the foreign banks on an equal footing with U.S. banks. Under it the foreign-based banks would be able to operate under state or federal charters, to form bank holding companies allowing expansion into numerous banking-related activities, to operate in states other than their "home state" via Edge Act subsidiaries and loan production offices, etc. All of this is precisely the same as the current treatment of U.S. banks, and in addition, we support the continued allowance of foreign-based banks to operate agencies on a multistate basis. Finally, to assure totally fair treatment of foreign banks operating here, the BAFT continues its support of total and permanent grandfathering of all facilities of whatever type and wherever located, which have been established in this country in full accord with prevailing laws and regulations. And we urge that the effective date for such grandfathering be moved forward to the most current, practical date.

4) That allowing full-service banking activities by foreign-based banks on a multistate basis are essential to permitting numerous regions in this country to become centers for international trade and finance. Since

our position would allow the foreign-based banks to operate via Edge Act subsidiaries and agencies in the processing and financing of international trade, these institutions will be able to function in any city or region throughout the U.S. that they believe to have the potential for becoming an international trade and financial center. Over the past decade many U.S. money centers and regional banks have established active Edge Act subsidiaries to deal in international transactions in cities like Chicago, Miami, Houston, New Orleans, Los Angeles, and San Francisco, not to mention New York, and it is generally agreed that these offices have proven extremely useful in abetting the international commerce of these locations.

5) That certain foreign governments might be incensed if legislation such as H.R. 10899, and especially if it included a strong Section V, were passed and had the effect of restricting the U.S. activities of the banks under their domestic jurisdiction, and that this might lead such governments to retaliate in some fashion against the operations of American-based banks in their homelands. First, we should state that we have never heard such a position expressed by a responsible government official of any nation, and we wonder if those persons who do make such statements aren't simply trying to scare U.S. officials and bankers. Whatever, there would be no rationale for such action by a foreign government because such legislation would not be protectionist or discriminatory against the U.S. operations of foreign banks, but would simply put them at parity with American banks. It is logical and appropriate that the regulatory environment for banking (just as education, health care, etc.) in any country should be based on the consensus of the national public and be uniform for all participants. The rules in one country should not be altered for a special group based on how that group operates in its home-base country, or even a third country. We doubt that any other nation would accept being told how they should regulate foreign based banks operating within their borders, and especially if those regulations must be more liberal than are those governing the activities of their domestic institutions.

In summary, our member banks to varying degree have expanded their activities practically worldwide, but we have not yet found any country where, on balance, the activities of foreign-based banks are afforded substantially preferential treatment in their domestic activities. In this respect the United States stands alone today. Much of this would be corrected with the passage of H.R. 10899, if it includes a strong Section V, written along the lines that we have always proposed; however, without such provisions, our Association cannot support passage of the legislation.

Thank you.

Senator McIntyre. Thank you, Mr. Palmer. I appreciate that you focused in on your principal point on the provision of the bill that bothers you the most, section 5.

My general feeling is that there is little justification for imposing post-Depression statutes of the thirties on banking developments today. Indeed, if there is a competitive imbalance with regard to multistate banking operations, I think the stronger case is that we should liberalize laws pertaining to U.S. banks rather than pose outdated restrictions on foreign competition.

Nevertheless, the dual banking system is very much alive, so, again your testimony, how do you view Chairman Miller's proposal to limit section 5 to branches permitting agencies of foreign banks to continue to do business on a multistate basis unhampered by this legislation?

Mr. Palmer. May I say, first of all, that I agree with you that the dual banking system is alive, but also that the trilevel banking system is becoming increasingly alive. Today there is a state banking system; there is a federal system; and there is a growing international banking system in this country. We do have three sets of rules by which we play, strange as it may seem.

As far as supporting Chairman Miller's statement on the branching for foreign banks—are you saying branches or agencies?

Senator McIntyre. His section 5 would—proposes to permit agencies of foreign banks to continue to do business on a multistate basis, not hampered by legislation, but not branching.

Mr. Palmer. We have supported that principle all along in our testimony. On this occasion, as in the past, we believe it is appropriate to allow multistate agencies, since agencies are not deposit-taking institutions.

Mr. Farmer. That provision is the same as the provision that came out of the House Banking Committee, which is the bill that we do support, the version as it was reported to the floor by the House Banking Committee.

Senator McIntyre. Regarding the question of interstate branches, do you feel that there may be some logic to restricting retail deposit taking, while leaving unaffected deposit taking which is fundamentally international or trade related?

Mr. Palmer. To the extent that it is international and trade related; yes. We would find that quite acceptable because that, in fact, is what is open to the American banks under the Edge Act laws. Many of our member banks, in fact, are taking advantage of that opportunity, going to a number of regional centers and assisting in their development of international banking: Miami, New Orleans, et cetera. And we are permitted to take deposits there if they are related to international trade and finance. We totally support that capability for foreign banking.

Mr. Farmer. I do think that the comparison of not simply retail and foreign trade, there is a very important market of domestic corporate deposits which is an area which we would definitely not want to have to continue on a multistate basis.

Senator McIntyre. Similarly, Mr. Palmer, as I asked Mr. LeMaistre this morning, is there any means of distinguishing, as the foreigners suggest, between retail depositors requiring FDIC insurance and commercial depositors which do not? How would you respond to the argument that deposits of foreign branches are not retail and, therefore, do not need FDIC protection?

Mr. PALMER. For the most part, the deposits of foreign branches are not of a retail nature. Most of the branches, as opposed to subsidiaries, are operating in a wholesale, if you will, environment.

However, under the principle of equal national treatment, to the extent that it is a Federal branch or a State branch in a State that requires deposit insurance, it would seem totally appropriate to require deposit insurance on all deposits.

I would say, however, that some of the debate on this is really one of the mechanics of bank regulation, and we would certainly defer to the regulatory authorities to advise you as to what they need to run a sound banking system.

Senator McINTYRE. While the bill here provides for mandatory insurance of foreign branches, the FDIC, expert in this area, argues for optional rather than mandatory insurance. Have you studied the FDIC proposal? Do you have any comment to make on it?

Mr. PALMER. I have not studied it in depth, but I think we would agree in terms of mandatory insurance for federal branches and mandatory insurance for State-chartered in those States which require a deposit insurance. I think we——

Senator McINTYRE. I don't understand that answer. Are you referring to state law, where they require deposit insurance, you would go along with it?

Mr. PALMER. Yes.

Senator McINTYRE. The question I ask asking is about—you heard the witnesses this morning, didn't you, some of them? Did you hear the witnesses this morning?

Mr. PALMER. I read Mr. LeMaistre's prepared statement. My two colleagues were here this morning.

Senator McINTYRE. The Fed testimony, by Mr. Miller, this morning, indicates that they advocate compulsory FDIC insurance, and, along with that, Ms. Siebert, of New York, stated that she feels that it should be mandatory.

On the other hand, FDIC comes in here and says: "Look, this is too much. We ought—it should be optional".

Mr. FARMER. And we also heard Mr. Heimann, who differed from Mr. LeMaistre. This is a very technical question of bank regulation which is essentially a matter of safe banking. Our feeling is that the regulators are really the people to advise you on that, rather than the professional bankers. I think we can comment, or my colleagues can, on the impact on the commercial banking system of some of this legislation, but we are not expert in adjudicating between regulators as to what is required for safe banking.

Senator McINTYRE. I didn't see it that way. I thought Mr. LeMaistre was trying to say that this was too much of a burden you are putting on us; if Bangladesh, for example, wanted to set up a bank, we might have a problem finding out how sound it was. That is what I thought they were talking about.

Mr. FARMER. Right. But they are the fellows that have the better experience in knowing how you determine what a Bangladesh bank can do in safe banking climates, rather than the commercial bankers.

Senator McINTYRE. Let's move on.

The Federal Reserve Board argues, Mr. Palmer, for reserve requirements for subsidiaries as well as branches, agencies, and commercial lending. On the other hand, Ms. Seibert testified that the Fed should have no authority to impose reserves on agencies and commercial lending companies since these entities are barred from accepting deposits and, therefore, do not function as banks. What are your thoughts on this issue?

Mr. PALMER. By "subsidiaries," do we assume that you are now talking about investment company-type subsidiaries, as opposed, say, to a subsidiary bank in California?

Senator McINTYRE. Subsidiary bank.

Mr. PALMER. A subsidiary bank would be a State-chartered institution such as we now have in California, and therefore, would be subject to the State laws.

Now, the fact is, in terms of equal national treatment in the United States today, the large American banks which are of a multinational nature, and which are similar, therefore, to the types of foreign banks which are branching here, all are members of the Federal Reserve. If not, it is probably because they are foreign-owned or strictly regional banks. So, they aren't, in fact, all maintaining reserves.

But we do not feel strongly about it, and again, as Mr. Farmer said, we would defer to the regulators.

Senator McINTYRE. The suggestion has been made that the grandfather date for all nonbanking activities under section 8 of the bill be made the date of enactment, rather than the artificial date of May 1977. Do you agree with this suggestion?

Mr. PALMER. We would not think it wise to set it at the date of enactment. I think our prepared statement does ask for the most recent practical date. What we are thinking of there is that that date should be, in effect, a yesterday rather than a tomorrow, and possibly yesterday, literally, or at the time it was introduced and voted on in the House in April or something of that nature.

If you put that date in the future, such as the date on which you enact the bill, you, one, give great incentive for further delaying of the passage of the legislation, and, two, you invite a tremendous number of petitions and applications trying to, in effect, beat the date.

This legislation has been debated now for about 4 years. I think there has been quite ample time for people to assume that there is going to be a different form of regulation and to act accordingly.

Senator McINTYRE. To what extent do recent and prospective acquisitions by foreign banks of U.S. banking interests affect the thinking of your organization with regard to this legislation, Mr. Palmer?

Mr. PALMER. They don't really affect our thinking, in principle, all that much, Senator.

As you notice, possibly, our testimony today is really quite similar to what it has been for the last 4 years. We would simply say that, to the extent that any of the current inequities of domestic bank regulation made available to a foreign bank the ability to make these proposals or these purchases when that opportunity might not be available to American banks, that seems like discrimination. But the fact that the foreign banks are becoming more active here says to us only that there is an increasing need for formal regulation.

We are not opposed. We are delighted to see foreign banks come into this market, to be active here.

Senator McIntyre. Can you give us your opinion as to the creation of domestic international banking zones and how this might affect international banking competition in this country?

Mr. Palmer. Yes, sir. The association passed a policy statement only 1 month ago, at our convention, in which we supported the ability to establish these domestic/international zones in any location in the United States, not restricted to any single city, State, or whatever.

We do not see any close relevance for those units to the issues of the legislation which we are now discussing. As far as its competitive aspects—the impact should be positive on the competitive environment for the international banking in this country because it should lessen costs for some participants.

Yes, we think it would be helpful, but we don't see that it has a very close relationship to this legislation.

Mr. Farmer. I think it is especially true because that proposal is to deal with the foreign transaction that is truly interntional banking—that is an international bill. And we are talking about a domestic—the bill that is before this committee is a domestic banking bill.

Senator McIntyre. Senator Stevenson has sent a message to me that he would like to get the views of the witnesses this afternoon on the compromise interstate branching proposals that he put forward this morning.

Namely, this is the gist of his suggestion: Continue to permit foreign banks to enter any State where they are welcome, but limit the deposit-taking activity of branches outside of the home States to those permissible for an Edge Act bank. Agencies as in Georgia, would be totally unaffected, and branches could make domestic international loans and conduct other activities, except they would be limited to accepting deposits from foreign sources or for international trade purposes.

Mr. Palmer. As we tried to state earlier, and to the extent we can understand it; as we hear it for the first time read in brief, we think that it conforms exactly to our longstanding idea of supporting Edge Act corporations and supporting agencies, including domestic lending agencies for foreign banks, and therefore we probably would endorse it entirely.

We would like to observe the writing of the technical language, but we think we would endorse it entirely.

Senator McIntyre. Let me add this, then. This proposal would be complemented by liberalizing amendments to the Edge Act intended to further facilitate the development of international banking facilities throughout the country. These amendments would be intended to encourage more domestic banks to form Edge Act corporations and engage in international financial activities.

Witnesses, especially of your association, are encouraged to suggest modifications which they believe would be desirable for this purpose. We are going to close the record in 7 days, so if you have got any ideas on it we would like to hear from you right away.

Mr. Farmer. We have supported this for some time, beginning with the Fed. We support this proposal and we would like to call attention to a related proposal which was in the original House bill, but didn't make it out of the banking committee, which liberalized the rules for

Edge Act operation. It was sponsored by the Fed, and we support it, especially permitting or authorizing the Fed to vary the leverage ratios, which are now 10 to 1 by statute. And we think that is a very important, that is presently a very limiting provision in the present regular K operations. And we support the Fed in getting such liberalizing legislation.

Senator McIntyre. Thank you, gentlemen. Thank you, Mr. Palmer and your associates, for your help. Anything you can add to that suggestion of Mr. Stevenson's, let us have it, please.

Mr. Palmer. Thank you.

[The following information was received for the record:]

PRATHER SEEGER DOOLITTLE & FARMER
1101 SIXTEENTH STREET, N. W.
WASHINGTON, D. C. 20036

ALFRED V. J. PRATHER
EDWIN H. SEEGER
J. WILLIAM DOOLITTLE
THOMAS L. FARMER
CARL B. NELSON, JR.
RICHARD T. WITT

TELEPHONE 202-296-0500
CABLE ADDRESS: "PRALAW"

June 28, 1978

The Honorable Thomas J. McIntyre
United States Senate
Washington, D.C. 20510

Dear Senator McIntyre:

In response to the request made at the June 21st hearings on H.R. 10899, the International Banking Act, for comments on Senator Stevenson's proposal regarding interstate branching limitations and for recommendations of revisions to the Edge Act (12 U.S.C. 25(a)) and the Federal Reserve Board's Regulation K which would facilitate Edge Act participation in international trade financing, I am hereby submitting a statement on these matters from the Bankers' Association for Foreign Trade. We are pleased to have another opportunity to share our views on these very important issues with you and hope you will find this exchange helpful in your deliberations.

Sincerely yours,

Thomas L. Farmer

Thomas L. Farmer

TLF:wrw
encl.

BANKERS' ASSOCIATION FOR FOREIGN TRADE
1101 SIXTEENTH STREET, N.W.
WASHINGTON, D. C. 20036

(202) 833-3060

MEMORANDUM

TO: Subcommittee on Financial Institutions of the Senate Committee on Banking, Housing and Urban Affairs

FROM: Bankers' Association for Foreign Trade

RE: Recommendations for Revisions in Regulation K and Amendments to the Edge Act.

We are pleased to respond to Senator McIntyre's and Senator Stevenson's invitations, extended at the time of the hearings on H.R. 10899, The International Banking Act, held on June 21, 1978, to provide our recommendations regarding amendments to the Edge Act (12 U.S.C. 25(a)) and revisions to Regulation K (12 C.F.R. Part 211). We are greatly encouraged that the Subcommittee has expressed its interest in subjecting both the Edge Act and Regulation K to close scrutiny at this time in connection with its consideration of H.R. 10899. The continued effectiveness of the Edge Act in facilitating U.S. exports is essential to the continued competitiveness of programs designed to increase U.S. exports and maintain the prominent position of the U.S. in world trade.

We believe, however, that Edge Act Corporations have been subjected to unduly restrictive statutory and regulatory requirements, which have limited their development as participants in international financial transactions. Although Congress specifically contemplated that Edge Act Corporations should "not be hampered in their competition with foreign banking institutions", (Report of the House of Representatives, Report No. 408, 66th Congress 1st Session 1919-1920, p. 3) the present situation in the United States is one in which foreign-based banks do operate at a competitive advantage over American-based banks. Although the Federal Reserve stated its understanding of the Congressional purpose in enacting Section 25(a) of the Federal Reserve Act as being to give Edge Act Corporations "powers sufficiently broad to enable them to compete effectively with similar foreign-owned institutions and to afford to the United States exporter and importer...at all times a means of financing international trade" (§211.1(b)(1)), there remain significant limitations on Edge Corporations.

We are pleased to have the opportunity to provide our comments to the Subcommittee on those areas we think require amendment to facilitate Edge Act operations in financing international trade. For the purposes of this memorandum, we have confined our comments to issues affecting Banking Edge Act Corporations and have presented the issues in the order of their priority with our members.

A. Limitation on Aggregate Liabilities

Section 25(a) 12 of the Federal Reserve Act reads, in part, "that no such Corporation shall have liabilities outstanding at any one time upon its debentures, bonds, and promissory notes in excess of ten times its paid-in capital and surplus."

However, Section 211.9(c) of Regulation K substantially broadens the statutory language and imposes further limits: "Except with prior Board permission, a Corporation's aggregate outstanding liabilities on account of acceptances, monthly average deposits, borrowings, guarantees, endorsements, debentures, bonds, and other such obligations shall not exceed ten times its capital and surplus."

The effect of Section 211.9(c) is that the Edge Corporation engaged in banking operates at a competitive disadvantage against its commercial bank and foreign agency or branch counterparts under this restrictive leverage ratio. The Edge Banking Corporation depends heavily upon deposits and acceptances outstanding to provide funding of loan portfolios, which typically consist of trade credits based upon merchandise movements and are protected against concentration of risks by the 10% liability limits imposed under Section 211.9(a) and (b) of Regulation K. Operating within the same control framework, and subject to the same thorough examination procedures, it would appear, therefore, that Edge Banking Corporations can operate at leverage ratios consistent with those permitted to their competitors. The present limits imposed by Regulation K on aggregate deposit and acceptance outstandings in relation to capital funds operate to severely and unnecessarily restrict the profit potential of the Edge Banking Corporation.

To provide the flexibility in funding of domestic and international loan activities, we recommend that the limitation on aggregate deposits, borrowings and similar liabilities and guarantees issued as provided in Section 211.9(c) of Regulation K, be applied only to debenture bonds and promissory notes as is required under the statute, and that in all other aspects formulae similar in concept to those applied to commercial banks be utilized by examiners. In any event, Regulation K, at a minimum, should be revised to exclude deposits. However, to provide maximum support to participation by Edge Corporations in international trade financing, we would recommend that the statute and Regulation K be amended to remove this restriction entirely from Edge Corporations.

B. Use of Loan Proceeds

This problem concerns loans made by Edge Act Corporations to domestic corporations, the proceeds of which are used to finance offshore operations. Frequently, the borrowers in such cases are unable or unwilling to provide satisfactory evidence in the tangible form of photostats, drafts, notes, etc., to confirm that a transaction is permissible under Section 211.7 (d), but are willing to provide only a written good faith statement that the loan proceeds are being used in a transaction that is within the provisions of that section.

It is recommended that the Federal Reserve Examiners accept in such cases the good faith statements of the borrowers provided that the borrower is clearly one that has offshore uses for the proceeds, and where the lender confirms that he is in possession of a written description statement of the borrower concerning the use of the funds.

It is understood that in such cases the examiners are required to make a value judgment based on the activities of the borrowing company. However, in practice this should not present any enforcement or regulatory problems. We would also recommend that such statements only be required once, that is when the original line of credit is established, rather than each time borrowing occurs under the same line of credit.

C. Employment of Funds in the Money Market

Section 211.7(b) prescribes the following with respect to the employment of funds. "Funds of a corporation not currently employed in its international or foreign business, if held or invested in the United States, shall be only in the form of (1) cash, (2) deposits with banks, (3) bankers' acceptances, or (4) obligations of, or obligations fully and unconditionally guaranteed by, the United States, any State thereof, or any department, agency, or establishment of, or corporation wholly owned by, the United States." The above excludes from investment certain conventional money market instruments, in particular municipal obligations not guaranteed by a State. These exclusions limit the flexibility of Edge Act Corporations in their investment and the ability to employ funds on a tax-free basis.

It is recommended that the Federal Reserve Board change the above regulation and permit investments in other types of tax-free obligations and commercial paper. If deemed necessary, limits could be established in relation to a corporation's total assets.

D. Lending Limits

Section 211.9(b) specifies that unsecured liabilities to a corporation or any one person of the type described in 211.7(d)(3) may in no event exceed 10% of a corporation's capital and surplus.

In connection with the issues raised in sections C and G of this Memorandum, we recommend that Sections 211.7(d)(3) and 211.9(b) be amended so as to include in any limits prescribed therein only those guarantees or similar agreements which represent true unsecured financial undertakings under which the issuing corporation assumes a true and measurable credit risk. If it is determined to be necessary to retain any limits on lending, and we do not believe it is, we would recommend that Edge Corporations be subject only to the same percentage limits as the parent corporation. In any event, Federal funds should not be subject to the 10% limit.

E. Receipts of Deposits from Domestic Concerns

Section 211.7(c) reads in part, "It will ordinarily be considered incidental to or for the purpose of carrying out transactions abroad for a Corporation to receive in the United States demand and time (but not savings) deposits that are not to be used to pay expenses in the United States of an office or representative therein...(2) from any other person if the deposit (i) is to be transmitted abroad, (ii) is to provide collateral or payment for extensions of credit by the Corporation, (iii) represents proceeds of collections abroad which are to be used to pay for goods exported or imported or for other direct costs of exports or imports, or periodically transferred to the depositor's account at another financial institution, or (iv) represents proceeds of extensions of credit by the Corporation

For the majority of Edge Banking Corporations, transactions with domestic firms engaged in export-import trade form an important source of earnings. The usual method of establishing an ongoing business relationship with such entities is to establish credit facilities and then encourage usage. The offering of a credit line is usually conditional upon establishment of a meaningful deposit relationship which most often requires maintenance of balances against the line and against usage.

The narrow interpretation generally applied by Examiners for the Board does not coincide with the customary business development practice as outlined above. Edge Banking Corporations are often subject to criticism based on balances maintained by domestic concerns in support of line requirements where usage has not as yet developed, or where the domestic concern is making use of other services such as credit checkings, exchange quotations, etc., and does not require direct borrowings. If the Edge Corporation is unable to maintain accounts for customers so that they are available for use when needed, it operates at a distinct disadvantage to its competitors in the same market.

It is recommended that Section 211.7(c) be amended to eliminate the specific requirements as to the types of transactions for which domestic source deposits can be drawn and that a more general instruction based on the character of business conducted by the depositor and the nature of the account relationship with the Edge Act Corporation be substituted. This would assure that Examiners for the Board would be required to evaluate such deposits consistently with current and regular business practices of Edge Corporations.

F. Reserve Requirements

Section 211.7(c) requires that Edge Corporations maintain reserves against deposits described in that section of at least 10 percent. This 10 percent minimum reserve requirement on aggregate deposits is mandatory even in situations where such reserve is more than required by Regulation D. Edge Corporations are thus economically penalized by being subjected to reserve requirements higher than other banks. We do not believe this competitive disadvantage should be permitted to continue and that if Edge Corporations are to be required to maintain any reserves at all, they should only be required to maintain the same reserves as the parent bank.

G. Limitations on Certain Guarantees Issued

Section 211.7(d)(3) provides that an Edge Corporation may "Guarantee customers' debts or otherwise agree for their benefit to make payment on the occurrence of readily ascertainable events, if the guarantee or agreement specifies its maximum monetary liability thereunder and is related to a type of transaction described in sub-paragraph (1) of this paragraph." A footnote to this Section provides an extremely broad definition of the type of undertaking referenced by including guarantees issued covering loss or non-conformance of shipping documents.

Section 211.9(c) further specifies that aggregate "outstanding unsecured liabilities under guarantees or similar agreements (described in 211.7(d)(3)) may in no event exceed 50% of its capital and surplus."

The limits described above have been a cause of some concern to an active segment of the Edge community since included in the 1963 revision of Regulation K. The broad coverage as specifically indicated by the footnote to Section 211.7(d) (3) has evidently raised questions in the minds of both Edge bankers and Federal Reserve Examiners as to the types of the "similar agreements" which must be included under individual and aggregate limits.

It would appear logical and necessary to impose individual customer limits on guarantees or similar agreements in situations where the liability incurred is similar in character to an acceptance liability, e.g., deferred payments under letters of credit, clean letters of credit, agreements serving as a payment mechanism, and other such arrangements. The individual limits appear unduly restrictive when applied to a stand-by situation where, by reasons of the character of the transaction or technical arrangement, draw-down is highly unlikely, as is the case in most performance guarantees and, in particular, guarantees issued covering loss or non-conformance of shipping documents.

Imposition of an aggregate limit of 50% of capital and surplus on such guarantees or similar agreements is a serious constraint when coupled with the existing broad interpretation of liabilities included in such limit. All Edge Act Corporations deemed to be engaged in banking offer letter of credit services. With the speed of modern transport, it is not unusual for merchandise to arrive before documents requiring issuance of a guarantee to secure release and avoid pier charges. Such undertakings represent a major segment of guarantee liabilities in any Edge banking operation. If an Edge Corporation could not issue such agreements by reason of limit, it would be effectively precluded from conducting further letter of credit business. It should be noted that except in cases of outright fraud, the "shipside bond" issued in an amount equal to the volume of the shipment covered does not yield a realistic measure of liability. If merchandise delivered does not meet purchase contract specifications, negotiations ensue between the exporter and importer for an adjustment in price. This restriction would be removed should Section 211.9(c) be deleted as recommended above.

SUPPLEMENTAL STATEMENT ON H.R. 10899

BANKERS' ASSOCIATION FOR FOREIGN TRADE

ROBERT B. PALMER, PRESIDENT

BEFORE THE SUBCOMMITTEE ON FINANCIAL

INSTITUTIONS OF THE SENATE COMMITTEE ON

BANKING, HOUSING AND URBAN AFFAIRS

In our statement before the Subcommittee on June 21, 1978, I expressed the support of a majority of our members for passage of legislation which would assure equal national treatment and a sound operating environment for foreign and domestic banking activities in the United States. At this time, I would like to express our support of the proposal made at those hearings by Senator Stevenson. Under the Stevenson proposal, foreign banks, as now and as under the House bill, would be free to establish State-licensed branches and agencies in any State where this is permissible. However, in the case of a State-licensed branch established outside of a foreign bank's designated home State, such branch would be limited to maintaining credit balances, as is currently permissible for agencies, and accepting the types of foreign-source and internationally-related deposits permissible for Edge Act Corporations under Section 25(a) of the Federal Reserve Act.* The deposit limitations would apply only to branches established after an appropriate grandfather date. Agencies, as now, would be unfettered since

*See §211.7 of the Board's Regulation K.

they cannot accept deposits. This proposal would enlarge the credit facilities but limit the deposit accepting powers of foreign branches to those permitted to Edge Act Corporations.

The vast majority of BAFT members would support the Senator's proposal. It is our opinion that this proposal would put foreign and domestic banks on a more equal competitive footing and would foster an actively competitive banking environment in which the general public would benefit from a full range of banking services. We have consistently opposed legislation which would result in foreign-based banks being permitted to take deposits in more than one state when American-based banks are restricted in their deposit taking activities to one or more locations within the single state in which they are headquartered. The proposal advanced by Senator Stevenson will assure the continuing development of new regional and local international banking centers while eliminating the competitive advantage provided to foreign banks under the statutory language approved by the House of Representatives. That language would have permitted foreign-based banks to locate in several different key commercial, financial and population centers across the country, thus giving them a decided advantage in the competition for a growing source of deposits. Under the Stevenson proposal, states which develop commercial bases requiring more sophisticated and extensive international banking services will be able to attract those banks which can provide those services.

We support Senator Stevenson's proposal and we urge the Subcommittee to give it full and serious consideration. We believe that this proposal will enhance the competitive environment for banking activities in the United States relating to international trade and finance and will stimulate such activities to the benefit of the general public. It is our opinion that Senator Stevenson's proposal is consistent with the existing dual banking system in the United States and substantially reduces the tri-level system which has existed in this country in favor of foreign-based banks over American banks. It is not the experience of the American banks abroad that any country provides substantially preferential treatment to the activities of foreign-based banks in domestic transactions. With Senator Stevenson's proposal, the International Banking Act is wholly consistent with the international treatment advocated by American banks active outside the United States and will substantially enhance the banking opportunities for foreign-based banks within the United States.

The Senator also suggested, in connection with this proposal, that the entire regulatory framework affecting Edge Act activities should be reviewed with an eye toward providing Edge Act Corporations greater freedom and flexibility in their activities. In connection with the Senator's proposal, the Bankers' Association for Foreign Trade has reviewed the provisions of the Edge Act and Regulation K. We have concluded that there are several amendments which would greatly facilitate banking activities relating to international trade and finance. These amendments are described in the attached Memorandum. We would welcome the opportunity to provide more specific recommendations at a later time after we have been able to more thoroughly study these issues.

We appreciate the opportunity to provide our comments on this matter.

Senator McIntyre. Thank you.

We call as our next witness Mr. Serge Bellanger, vice president and chairman, Institute of Foreign Bankers; Mr. Teruhisa Shimizu, the legislative committee of the Institute of Foreign Bankers; and Mr. Steuart L. Pittman, counsel for the Institute of Foreign Bankers.

STATEMENT OF SERGE BELLANGER, VICE PRESIDENT AND CHAIRMAN, LEGISLATIVE COMMITTEE, INSTITUTE OF FOREIGN BANKERS; TERUHISA SHIMIZU, TRUSTEE, IFB; AND STEUART L. PITTMAN, COUNSEL, IFB

Senator McIntyre. First I want to welcome you all here.

Let me ask the Institute first: What is your plan of procedure on testifying? Mr. Pittman, do you have one statement or three statements?

Mr. Pittman. Mr. Bellanger will read the statement for the three institute witnesses.

Senator McIntyre. All right. How do you, Mr. Jahn, how do you plan to proceed?

Mr. Jahn. We will have one statement divided into three short parts, very brief.

Senator McIntyre. That's fine, very good.

All right, gentlemen. We will lead off here. The Institute of Foreign Bankers. We recognize Mr. Serge Bellanger.

Mr. Bellanger. Thank you, Mr. Chairman.

I am Serge Bellanger, vice president and chairman of the Legislative Committee of the Institute of Foreign Bankers and senior vice president and general manager of Credit Industriel et Commercial. With me is Teruhisa Shimizu, trustee of the institute and general manager, the Sumitomo Bank, Ltd., in New York City; and Steuart L. Pittman, counsel to the Institute and partner of Shaw, Pittman, Potts & Trowbridge, of Washington, D.C. To save time, we have consolidated our brief statements into one which I will read.

We are testifying for the Institute of Foreign Bankers, which is the only organization able to speak for foreign banks from all parts of the world which are operating in the United States. The membership covers nearly 150 subsidiaries, branches, or agencies from 38 foreign countries.

We recognize and appreciate that the House bill reflects significant modification of earlier bills resulting from the testimony of many witnesses, Federal bank regulators, State bank regulators, domestic banks, and foreign banks, pointing out the many difficulties. We would like to believe that five hearings over nearly 3 years might have ended the uncertainty and provided a basis for a sensible bill defining necessary new Federal laws regulating foreign banks in the United States. Unfortunately, we can find very little to justify enactment of this bill and find ample justification for setting it aside.

I will take up the four separate and distinct issues of this bill and identify briefly in each case what we believe to be wrong and how the section could be improved if you should decide that legislation is necessary.

One, interstate branching restrictions are increased by section 5 at a time of growing recognition that they are anticompetitive and ripe for change. The States and the State supervisors have made their view abundantly clear in the House that the right of major cities to equal treatment with New York City in competition for the benefits of foreign banking is more important than the debate over equal treatment of commercial banks under Federal law.

For our part, we want to emphasize a point which has been overlooked because it is somewhat more complex. Foreign bank interstate branching is not a nationwide phenomenon. In fact, it has little significance outside of Chicago and New York City. California does not allow foreign bank branching, nor does any other State with a banking market capable of attracting significant foreign bank investment.

The success of Illinois in attracting 27 foreign bank branches and limiting them to wholesale business by denying them multiple convenient bank locations near retail business is generally approved, even by those who say "no more" in Chicago or other cities. Coupled with the inability to develop retail business without FDIC insurance, the various State laws effectively preclude foreign banks from interstate retail banking.

We think the record of previous hearings has produced overwhelming evidence that the big city domestic banks with which foreign banks compete are able to engage in wholesale banking in many States in a variety of forms and under a variety of foreign and State laws. There appears to be no domestic bank outcry against interstate wholesale banking or related financial activities.

If it makes sense to leave decisions on interstate branching of foreign banks to the few States involved, surely it makes sense to be no more restrictive with respect to foreign bank subsidiaries, all of which are subject to multistate banking restrictings under the Bank Holding Company Act.

Section 5 of the bill, perhaps inadvertently, is more restrictive of subsidiaries than branches, and unnecessarily overlaps and exceeds existing law on interstate bank holding company expansion, which applies equally to foreign and domestic banks.

On the second issue, mandatory FDIC insurance is resisted by FDIC, which knows more about the needs and the administrative problem of deposit insurance than any other regulatory agency. We concur with FDIC's recommendation that the insurance be optional. If the decision is otherwise, we urge you to recognize that the imposition of FDIC insurance on foreign bank branches is inevitably discriminatory, because of the need to protect the insurance fund by costly asset pledges or surety bonds. As a minimum, this discrimination should be offset by confining mandatory insurance to the retail deposit business, if any, of these branches.

Our statement shows that the foreign bank deposits are almost entirely wholesale in nature. To compel premiums to be paid on wholesale deposits when they account for over 95 percent of all deposits compounds the discrimination of asset pledges or surety bonds. If there must be special treatment of foreign banks requiring costly pledges or bonds, it seems only fair to compensate with special treatment which avoids unnecessary premiums on large deposits and borrowings.

Turning to the third issue, reserve requirements are imposed on foreign bank branches by the State supervisors which apply FRB reserve ratios with minor exceptions. Marginal reserves on international interbank transactions are imposed by "voluntary" compliance requested by the Federal Reserve Board for all foreign bank operations in the United States. To a banker, a central bank "request" is tantamount to a regulation. In many foreign countries, it is the main method of administration. So the question is, What else is needed?

We believe that this question should be answered by demonstrated requirements for the administration of U.S. monetary policy. The aggregate amounts of reservable transactions at issue are insignificant in monetary policy terms.

If a case can be made, which we have not yet heard, for additional FRB authority for monetary policy purposes, and if the committee is prepared to treat domestic and foreign nonmembers differently, we urge that the section 7 authority more carefully define State and FRB "cooperation" so as to leave to the State supervisors all administrative responsibility to the extent not impairing monetary policy.

We have made specific proposals to this end in our statement. Three results which are particularly important to us are:

First, that reserves be held with correspondent domestic banks under State administration;

Second, that voluntary compliance supported by State law be relied upon until proven inadequate;

And third, that nondepository institutions, which maintain credit balances in connection with other permissible transactions, would not be subjected to reserve requirements on these balances.

We think the House was right that the application of FRB reserve requirements to State-chartered subsidiaries would not only be discriminatory, but an unnecessary encroachment on State banking administration.

Coming to the fourth and last issue, nonbanking restrictions are imposed by the Bank Holding Company Act on foreign subsidiaries, but not on branches or agencies, which would be covered by section 8 of this bill. We have proposed amendments which would preserve the objective of the Bank Holding Company Act and of this bill that the U.S. Government restrain itself from regulating the holdings of foreign banks or shares of foreign corporations which do most of their business outside the United States. The change would merely maintain the exemption for U.S. corporations owned by those foreign nonbanking subsidiaries with most of their business outside the United States.

We have also pointed out that the nonbanking restrictions of the Bank Holding Company Act are confined to domestic depository institutions and are not appropriately extended to foreign bank nondepository institutions unless they are also to be extended to domestic nondepository institutions.

From the foregoing, it is apparent that, if there is to be legislation, the bill has no necessary application to foreign bank subsidiaries, nondepository agencies or nondepository commercial lending companies. It should at least be simplified by confining it to branches.

Finally, may I say a word to dispel the myth which has grown up that foreign banks are expanding in the U.S. banking market because of regulatory advantages. The expansion is a phenomenon of international banking and is equally shared by foreign and domestic banks. While foreign banks may have some advantages in long experience and expertise in international banking, they operate at a net regulatory disadvantage in the United States when all State and Federal laws are taken into account. This bill has a considerable potential for adding to these disadvantages, and has very little practical significance to reducing alleged competitive advantages. These observations are amply supported by the evidence of the five hearings on the foreign bank legislation.

Thank you for the opportunity you have given us to express our views.

[Complete statement and an additional communication follow:]

June 21, 1978

INSTITUTE OF FOREIGN BANKERS

COMMENTS

BEFORE THE

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

SENATE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

The Institute of Foreign Bankers is represented at these hearings by Serge Bellanger, Vice President and Chairman of the Legislative Committee of the Institute and Senior Vice President and General Manager of the Credit Industriel et Commercial in New York City; Teruhisa Shimizu, General Manager, The Sumitomo Bank, Ltd. in New York City; and Steuart L. Pittman, Counsel to the Institute and partner of Shaw, Pittman, Potts & Trowbridge of Washington, D.C. The membership of the Institute is comprised of over 200 offices of foreign banks in the U.S., of which 148 are subsidiaries, branches or agencies. The home offices of these banks are located in 38 foreign countries in Europe, the Middle East, South Asia, East Asia, Latin America and Canada. The membership accounts for the vast majority of all foreign bank offices in the United States.

As you will see from our comments, we think that the most sensible suggestion on possible new federal regulation of foreign bank activities in the United States was set forth

30-563 O - 78 - 13

in seven points, which Senator McIntyre put forth for comment in the January 1976 hearings before this Subcommittee. The Federal Reserve Board and the House have moved in the direction of those seven points. The issues on which we are commenting are framed by that seven point program, the legislation which has emerged from the House and the current FRB proposals to modify that legislation.

I. BACKGROUND

We find ourselves in a somewhat awkward position representing the many members of the Institute before this Committee after participating in five hearings on this subject over the last several years. Our members genuinely believe that the necessity for legislation has not been demonstrated in these hearings or elsewhere. Yet we have the impression that, since passage of an improved House Bill (we will call H.R. 10899 "the Bill"), there may be a disposition in this Committee to dispose of this low priority, long drawn-out matter by passing a bill in some form, that there may be some impatience with what appears to be doctrinaire positions on both sides of the issues and that the time has come for compromise.

In this connection, we hear speculation that the several large recently proposed foreign bank acquisitions may stimulate new protectionist concerns about foreign bank participation in the U.S. market. Each of these acquisitions would result in foreign bank control of a subsidiary bank, in a single state, subject to the Bank Holding Company Act, which would be insured by FDIC and would be a member of the Federal Reserve System. Hence, the spirit, as well as the letter, of the Bill is entirely consistent with such foreign bank acquisitions.

In deference to this reported mood that something must be done at this time, we will include in our comments proposals for improvements in the Bill, which we think can be readily made without frustrating its purposes. However, we want to make it abundantly clear that we believe the Bill is unnecessary and in important respects discriminates against foreign banks. The mix of existing federal and state regulation of foreign bank operations in the United States in all of its forms is no more illogical or unequal than the diverse regulations affecting differently various classes of domestic banks. While complex, the present system works. We have learned that change in laws creates expensive and burdensome ripples as the legislative process moves on to regulatory implementation and interpretations and judicial opinions which ultimately determine the new rules under which we must live in the United States. If there must be change, we urgently ask that the change be justified by clearly perceived practical requirements arising from demonstrated deficiencies in state and federal regulatory powers and not by a new legal structure designed to achieve a theoretical symmetry of equal treatment.

The progressive moderation of the Bill over several years suggests that the more this subject is aired and discussed, the more doubts are created about its provisions and about earlier convictions that there is something urgent to be done. We hope that the Committee will reexamine the views of the Institute and many other witnesses at earlier hearings to the effect that the Bill is misconceived because

(a) it violates more than it furthers the principles of equal treatment,

(b) the principles of equal treatment under federal laws for the regulation of depository institutions cannot be consistently applied to foreign bank branches and agencies which are not comparable to domestic banks because they are not engaged in retail banking,

(c) the FRB has access to any information it may wish to obtain from U.S. operations of foreign banks for monetary policy purposes,

(d) the quantities of transactions which would be subject to reserve requirements imposed on foreign banking operations are too small to have an appreciable impact on monetary policy,

(e) foreign banks are not engaged in the type of business requiring deposit insurance except through subsidiaries which are already subject to deposit insurance,

(f) foreign banks cannot effectively use interstate branching privileges to compete in retail banking in more than one state, and

(g) there is widespread interstate wholesale banking by large domestic banks with which foreign bank branches compete.

If we are right about this, and we think we are, this Subcommittee should file a report ending this prolonged review of the need for new federal foreign bank regulation by finding that the need has not been demonstrated.

There are four major and unrelated issues of the Bill: interstate branching; mandatory FRB reserve requirements; mandatory FDIC insurance with bonding or pledging substitutes; and non-bank affiliations. These major issues are quite distinct and need not be packaged in a single bill; in fact, the last three issues are amendments of three different federal bank statutes: the Federal Deposit Insurance Act, amended by Section 6; the Federal Reserve Act, amended by Section 7; the Bank Holding Company Act, amended by Section 8. Whether or not these issues should be dealt with at one time in one bill, it is clear that any analysis of the proposals for foreign bank regulation must address them separately and avoid confusing their very different purposes.

Before discussing improvements in the Bill, certain background perspectives are necessary. Proponents of the Bill have left three impressions in the five hearings during the last three years which are misleading and could well affect the decision of Congress on what to do about foreign bank regulation. The first is that foreign banks are largely unregulated in the U.S.; the second is that the various differences in the regulation of foreign and domestic banks work to the advantage of foreign banks; and the third is that foreign bank operations in the U.S. are generally comparable to those of domestic banks. Any objective study of foreign bank regulation in the U.S. will show that foreign banks are as heavily regulated as domestic banks, that most of the differences in regulations are advantageous to domestic banks and that those foreign bank operations doing a business comparable to that of the domestic banks are subsidiaries which have none of the alleged foreign bank advantages.

Subsidiaries are subject to regulation by FDIC, and their foreign bank parent is subject to regulation by the FRB under the Bank Holding Company Act. Some of the larger subsidiaries are members of the System. While primary regulation of branches and agencies is by the states, reporting requirements have been successfully extended over all types of foreign bank operations in the U.S. by the Federal Reserve Board through the cooperation of the foreign banks and the state banking authorities. The Federal Reserve Board over the last five years has also successfully imposed selected reserve requirements on foreign bank operations by the simple expedient of a letter requesting compliance, which has been 100%. In addition, peripheral federal regulation is achieved through miscellaneous federal statutes, the most important of which is the Financial Recordkeeping and Currency and Foreign Transactions Reporting Act of 1970, which applies to international banking transactions which make up a large part of the U.S. business of foreign banks.

The banking laws of the three states in which foreign banks are active in effect impose on foreign bank branches and agencies the full range of regulations applicable to state banks, with certain exceptions for those not permitted to take deposits. These regulations are administered by skilled banking departments in the country's major financial centers. In addition, these states impose special restrictions and regulations on foreign bank operations which take account of their foreign nationality or ownership. These include requirements to maintain assets substantially in excess of liabilities within the state,*/ requirements to deposit cash or high quality assets with

*/ The New York Banking Law, which has established a model followed with variations in other states, requires maintenance of assets within the state of 108% of liabilities, and requires deposit of cash or governmental securities or their equivalent with the Banking Superintendent in amounts equalling 5% of total liabilities.

the state banking departments in a manner available to depositors and creditors in the event of defaults, lending limits based on capital and surplus and the maintenance of reserves at ratios similar to FRB reserves. Furthermore, there are, in varying circumstances, restrictions on full service banking powers or restrictions on branch locations for the purpose of keeping foreign banks from effectively participating in retail banking markets.

The net result is that taking account of both state and federal regulation, foreign banks operating in the United States are on the whole more heavily regulated, more extensively reporting, more severely restricted and more discriminated against than are domestic banks. Some of this unequal treatment is recognized by foreign banks as a necessary consequence of reciprocity or of the inaccessibility of their foreign assets to United States creditors. While foreign banks have adjusted to, and are willing to live with, such unequal treatment, they find it difficult to understand why the few alleged foreign bank advantages are singled out for equalization when there is no way to avoid regulatory restrictions applied uniquely to foreign banking operations.

II. INTERSTATE BRANCHING -- SECTION 5

The House decision to eliminate interstate branching restrictions on state licensed branches will presumably be reviewed by this Committee. The Institute believes that the House and the state bank supervisors and their governors are right on this issue for many reasons which we have set forth in past testimony. If there is here a genuine issue of equal treatment of foreign and domestic banks, which we doubt, perhaps the threshold question for the Senate is whether the public interest is best served by treating the cities equally or by treating privately owned banks equally. However, our comments as foreign bankers are limited to something we know more about, namely, the competitive conditions in which we operate.

As banks subject to both state and federal regulations, it seems unrealistic to us to isolate federal regulations from those of New York or Illinois or California. Taking account of all applicable regulations, foreign bank branches, agencies and subsidiaries are all more restricted in their choice of geographic location and in their banking powers than any domestic bank being started up or expanded in the U.S. Of the three states actively regulating foreign banking, the interstate branching issue affects only New York and Illinois because California will not license branches with power to accept domestic deposits. The state of Illinois has restricted foreign bank branches to a single downtown location for the purpose of avoiding retail competition with local banks, and this purpose has been effectively achieved. As a result, only in New York is there a theoretical ability for a foreign bank to seek retail business in the usual manner through conveniently located branches (of course, intrastate branch networks of state chartered subsidiaries are possible in New York and California but such branching to reach retail markets is restricted to a single state by Section 3(d) of the Bank Holding Company Act). The practical reason why foreign banks are not retailing through directly owned branches in New York is the unavailability of FDIC insurance to branches of foreign banks. Thus it is clear that federal and state law combine effectively to prohibit foreign banks from multi-state retail banking. The only exceptions are a few insured subsidiaries grandfathered in two states under the Bank Holding Company Act in the same manner as the grandfathered domestic banks.

We conclude that the concerns of BAFT and the FRB about interstate branching have little to do with practical reality and are largely responsive to the widespread concern of local and regional banks over the interstate branching controversy which is rapidly developing. That issue is exclusively concerned with retail bank competition across state lines. Wholesale banking and non-depository financial activities are conducted nationwide by many large domestic banks under a variety of federal and state laws. We refer not merely to Edge

Corporations and loan production offices but to subsidiary operations permitted in some states and to grandfathered and bank related financial operations exempted under the Bank Holding Company Act. As a result, these banks are a powerful force in dozens of states in interstate wholesale banking (lending, money market operations, etc.), which are the activities with which the foreign bank branches and agencies most actively compete. It seems abundantly clear to us (a) that domestic bank concern over the interstate branching issue is confined to retail banking, and (b) that foreign banks under existing law have no access to retail banking in more than one state, and (c) that the secondary state activities of foreign bank branches are limited primarily to wholesale banking in Chicago, which contrasts with domestic bank multi-state financial activities in many states, in some cases over 30 states.

Regardless of which way the Committee decision goes on interstate branching, there are two non-controversial changes which should be included in either version of Section 5 and which are quite important to some of the foreign banks.

1. Prospective Application of Section 5.

If the interstate restrictions on state licensed branches on foreign banks had not been removed, there is every indication that the House would have avoided any federal prohibition closing down existing branches or rescinding approvals previously granted by state authorities. Furthermore, the grandfather provision was removed from Section 5 as unnecessary because Section 5 was thought to apply primarily to federally licensed branches, which do not now exist and could not exist until after this bill is enacted into law. Overlooked was the residual application of Section 5 to subsidiaries, which had the unintended effect of superseding grandfather rights acquired under the 1970 Bank Holding Company Act amendments without substitution of new grandfather protection. As now drafted, Section 5 creates a risk of interpretation which could require divestiture of large state chartered bank subsidiaries, some with intrastate branching networks.

Although the grandfathering oversight might be easily cured in a number of ways, we suggest, in the belief that there is no present need and that there was no disposition in the House to close down existing bank branches, that the cure meet the existing Section 5 and also meet the possibility of any amendments to further restrict Section 5. The most direct way to resolve this difficulty is to change the word "operate" in Section 5(a) to "establish or acquire" so that the section would follow the normal practice of legislating prospectively, thereby avoiding the unnecessary issue of what grandfather date is fair.

2. Overlapping Multi-state Subsidiary Restrictions in Existing Law.

We believe Section 5 inadvertently imposes restrictions on subsidiaries which overlap and exceed existing law, namely, Section 3(d) of the Bank Holding Company Act, which is also designed to avoid multi-state banking. If interstate branching restrictions are restored to Section 5, we see no justification for expanding the entirely adequate existing restrictions on subsidiaries in a secondary state. They apply equally to foreign and domestic banks. If the decision is to eliminate the interstate branching restrictions, then the Section 5 restriction against subsidiaries is even more difficult to justify. In its present form, Section 5 produces the anomalous result that a foreign bank, with a branch in New York and no subsidiaries in the U.S., could not establish its first U.S. subsidiary in Illinois (if Illinois law is changed to permit it) even though it could establish a branch in Illinois. In contrast, if it had a subsidiary in New York, it would be free to establish a branch in Illinois. The result is to discourage use of the subsidiary form of banking in the United States, even though the problems which the Bill attempts to cure are branch problems and not subsidiary problems.

3. Interstate Restrictions on Nondepository Institutions.

It should be obvious that the application of Section 5 to "commercial lending companies" accomplishes nothing and merely adds to the list of the Bill's discriminations against foreign ownership of banks. The FRB has proposed that the interstate restrictions be applied to the domestic activities of agencies and commercial lending companies, neither of which are permitted by state law to take domestic deposits. To do so would be clearly discriminatory because comparable restrictions on domestic banks apply only to depository institutions.

As to agencies, we make the further point that it would seem an unnecessary challenge to the states' commitment to dual banking to abrogate by federal law the recent new laws of Georgia and Florida designed to attract limited foreign bank presences through agency laws.

As to commercial lending companies, there is even less purpose to be served. According to the 1976 House Banking Committee Report, "commercial lending companies" means exclusively the six foreign-owned investment companies organized under Article 12 of the New York Banking Law. Thus by definition, commercial lending companies exist in only one state with a unique law. The type of non-depository business they conduct can be, and is, engaged in by domestic banks across state lines. There are more New York Article 12 investment companies owned by domestic shareholders and, of course, this bill covers only those that are foreign-owned. Coverage is unnecessary and discriminatory.

* * *

Accordingly, we urge that Section 5 be redrafted to apply prospectively and to apply solely to branches licensed under new federal law. If regrettably the decision is to restrict state licensed branches, it should apply prospectively to federal and state branches, but not to subsidiaries, investment companies or agencies. The result will be a Section 5 which is considerably shorter, more understandable and more effectively focused on its purpose.

III. DEPOSIT INSURANCE -- SECTION 6

The difficulty with mandatory FDIC insurance for foreign bank branches has been repeatedly pointed out in letters to the banking committees of both Houses by the Federal Deposit Insurance Corporation, the expert agency which would have the task of administering coverage of these branches. FDIC recommends that these difficulties be resolved by making the insurance optional for foreign bank branches. Section 6 is an attempt to merge mandatory insurance with solutions to some of these difficulties. It consists of 15 pages of complex new amendments to the Federal Deposit Insurance Act developed by the staff of the St. Germain Subcommittee after the hearings last August were closed. The House Banking Committee gave no opportunity for comment by the regulators or those regulated, except for an FDIC recommendation against the Section in a letter responding to an inquiry from the senior minority member of the St. Germain Subcommittee. We are surprised by the inattention in the House to the recommendations of the administering agency, which were not even discussed in the Committee's markup session.

We are even more puzzled by the apparent lack of awareness by domestic banks of the impact which Section 6 must inevitably have in artificially stimulating retail competition which neither foreign banks nor domestic banks would otherwise

30-563 O - 78 - 14

engage in. It should be recognized that only by developing local retail deposit business can foreign bank branches cover the costs of the mandatory insurance.

The problem posed by Section 6 is quite simple. FDIC cannot treat foreign banks and their foreign assets as though they were in the U.S. The overseas offices and assets cannot be made fully accessible to the regulatory, enforcement and collection efforts of the U.S. Government. The resulting risk to the insurance fund compels FDIC to require compensatory asset pledges or surety bonds, in addition to the normal premiums. Hence, there is no escaping the fact that the costs of insurance to foreign bank branches must substantially exceed the costs to domestic banks.

This discriminatory result is compounded by imposing premiums on large denomination certificates of deposits and similar borrowings which do not benefit from FDIC insurance. Foreign bank branches with few exceptions are not engaged in retail deposit business, which would benefit from and be attracted by FDIC insurance. The bulk of their deposits are certificates of deposit over $100,000 sold to the large international industrial and financial organizations. Because FDIC insurance is designed for retail deposits, it has a $40,000 ceiling.

A survey of all New York branch members of the Institute, conducted in Februry 1978, to which 35 branches (or 75%) responded, showed that deposits held by individuals in the U.S.

were in eight cases zero, and in two cases between 4% and 5% of total deposits. For the rest of those reporting deposits of individuals, the percentage of total deposits was less than 1%. The survey also showed that, for most of those reporting, assets equalling 5% of their total liabilities deposited as required by law for the account of the State of New York, as a kind of insurance fund for the protection of depositors, exceeded by far the aggregate of each bank's deposits which would be covered by FDIC insurance. In fact, assets deposited were, on average, 47 times greater than that aggregate.

In contrast, deposits of domestic banks are with rare exceptions mostly retail, and we know of no domestic bank with retail deposits under 40% of its total deposits. Compulsory premiums calculated on total deposits for foreign bank branches become discriminatory when, unlike domestic banks, their deposits are overwhelmingly of a type which derives no significant benefit from FDIC insurance.

Yet it is argued that equal treatment requires coverage of all deposits, including large denomination certificates of deposit, for foreign bank branches because they are also covered for domestic banks. Unless we are concerned only with theory and willing to ignore practical consequences, there must be a point at which the minimal volume of small checking deposits in relation to large bank borrowings wipes out any attempt to justify mandatory insurance in terms of equal treatment and makes discriminatory the application of premium charges to the more than 95% of the deposits which do not benefit from the insurance. We cannot believe that a serious argument is being made that insurance should be required of foreign bank branches not dealing with a public requiring FDIC protection in order to burden them with an unnecessary cost merely because their domestic competitors incur that cost and in exchange buy the benefits of the insurance which increases their access to free funds from depositors with accounts small enough to be protected under the FDIC ceilings on insurable amounts.

We believe that the question of whether FDIC insurance is needed for the protection of depositors of foreign bank branches is best resolved by the FDIC proposal for optional insurance. This would permit the foreign bank branches to avoid an unnecessary and discriminatory burden. It would also permit the very few foreign bank branches in New York which take some small deposit business in a specialized ethnic market to become insured banks. If they are seeking to attract such deposits, the insurance will generate new business and justify the burdens. However, we continue to believe that the well-established pattern to date will be continued into the future, namely, that foreign banks seeking retail deposit business will establish or acquire subsidiaries which will be insured and be better able to attract retail business than branches.

Whether the Committee decides on optional or mandatory insurance, we suggest two conditions on the insurance extended to foreign bank branches:

(1) Insurance coverage should be limited, and premium requirements applied, only to the aggregate deposits of individuals who are U.S. citizens residing in the United States. The purpose would be to limit coverage to retail deposits and to exclude those depositors which have no need for the insurance and would not be influenced in their choice of the bank by FDIC insurance. It is a reasonable presumption that deposits by organizations in foreign bank branches are not retail business and are not looking for FDIC protection.

(2) FDIC may by regulation exempt those branches which have predominantly corporate and foreign deposits, and thus an insignificant volume of insurable deposits, from all or any provisions of the Federal Deposit Insurance Act and regulations thereunder.

Although similar treatment is not accorded to domestic banks, this difference is clearly justified by the offsetting discrimination against foreign banks arising from the requirement for asset deposits or surety bonds necessary to protect the insurance fund from foreign risks.

IV. RESERVE REQUIREMENTS -- SECTION 7

Although we believe that after five hearings the case for Section 7 has not been made, we will address the contingency that the Committee decides to do something to add to FRB authority over reserve requirements on transactions of foreign bank operations in the U.S. We are suggesting that this be done by FRB controlling decisions affecting mandatory policy without displacing administration of reserve requirements by the state supervisors, that is to say, by giving the FRB authority to set uniform state reserve ratios as applied to foreign banking operations and to assure foreign bank compliance with marginal reserves imposed on a voluntary basis on international transactions over the last five years.

Before making our proposals, we wish to remind the Committee why we believe that Section 7 cannot be justified on the ground either of equal treatment or monetary policy. Briefly, the Section is inherently discriminatory in denying foreign banks with U.S. operations the choice open to a domestic bank to join or abandon Federal Reserve System membership depending on how the mix of benefits and burdens affects a domestic bank. Because domestic banks are free to leave the System whenever the burdens outweigh the benefits, there is serious consideration being given to changing the cost-benefit ratios. The choice apparently means something.

The $1 billion size distinction does not mitigate the unfairness, even assuming, which we cannot, that the foreign assets owned by the parent should be included. The FRB has identified over a dozen non-members exceeding this arbitrary size limitation. Foreign bank branches, agencies and most subsidiaries are small and specialized operations. Furthermore, branches and agencies are generally subject to reserve requirements at home. Equal treatment seems to argue against, not in favor of, Section 7.

The monetary policy justification for the Section raises more serious questions. As of April 1978, using FRB statistics, total deposits and credit balances for foreign bank branches, agencies and commercial lending companies constituted ~~$19.8~~ $13.5 (per IFB) billion, which is approximately 1.5% of the total deposits of U.S. commercial banks.*/ Non-member commercial bank deposits are nineteen times greater, or about 28.5% of total commercial bank deposits. Clearly, FRB reserve authority under this Section would not add significantly to its monetary control capability. Even as to balances outstanding between the U.S. and foreign offices of foreign banks, which the FRB emphasizes as having a potential monetary policy significance, data

---

*/ Even if deposits held by foreign bank subsidiaries ($13.0 billion) are included, the share of the total for the U.S. is about 3%. We are following methods used by the FRB, which exclude from deposit and credit balance totals intrabank and interbank liabilities and letters of credit, certified and officers' checks and travelers' checks. December 1977 figures are used where April 1978 were unavailable.

again show insignificant quantities relative to the overall supply of money and credit in the U.S. For all foreign bank subsidiaries, branches, agencies and commercial lending companies in the U.S., according to April 1978 FRB statistics, these transactions, mostly of branches and agencies, netted only $10.4 billion, which is under 1.5% of the domestic bank deposits.

The limitations on the contribution which the proposed new Section 7 authority of FRB can make to monetary policy must be recognized. Foreign banks do not need branches, agencies or subsidiaries in the U.S. in order to respond to the economic forces which move funds in and out of the U.S. Any effort to restrict the international flow of funds by restricting the U.S. banking operations of foreign banks runs into the hard fact that these banking windows in the U.S. are convenient but not necessary to the transactions which determine the flow of funds in and out of the U.S. The recent development in New York of a proposed international banking zone, exempt from taxes and reserve requirements, which might be repeated in other gateway cities, is further evidence that trends in international banking are recognizing that unilateral national controls over international monetary movements merely drive the transactions out of reach. If international monetary controls become a recognized need, the need can only be met through agreement among governments or central banks, not through overlapping unilateral national regulations which would jeopardize the continued development of the highly successful international banking system emerging in recent years.

1. Section 7 Authority Should Not Be Directed at Alleged Foreign Bank Advantages.

It is unclear whether the purpose of Section 7 is solely to serve U.S. monetary policy objectives or also to attempt some measure of equalizing treatment as between foreign and domestic banks. However, past FRB testimony shows that it intends to administer reserves to achieve an equal treatment objective, in addition to the monetary policy objective. Equal treatment is a concept which makes sense with respect to a particular regulation if other conditions of doing business are roughly similar, but not if applied to classes of banks, such as foreign banks, which are subject to different costs of doing business and to other discriminatory regulations.

The foreign bank branches and agencies are engaged in the U.S. essentially in wholesale operations with a strong international orientation and, therefore, bear little resemblance to the operations of the domestic banks with which they compete in their specialized markets. As pointed out above, they are subject to unique limitations on their access to retail deposit funds which are vital to keeping down the average cost of funds to domestic banks. State law imposes a restrictive regulatory system to compensate for the inability to regulate overseas home or parent offices. Foreign central bank reserve requirements may overlap those imposed by U.S. regulatory authorities. In sum, the costs of funds to branches and agencies are subject to quite different influences than domestic banks. Comparison of these costs are very difficult to make with accuracy, but it seems clear that domestic bank access to free and low-cost retail deposits offsets cost advantages, if any, which favor foreign banks.

Whether administration of reserve requirements is by the FRB or by the state bank supervisors determines how funds are held in reserve and involves cost differentials for the reserving bank. Conflicting arguments have been made by respectable authority both that state administration gives a competitive advantage to non-member banks, and also that it gives no such advantage when the benefits and burdens of membership in the System are weighed. We contend that any justification for additional FRB authority over U.S. activities of foreign banks should not be entangled with this unresolved controversy. To allow foreign bank reserves to continue to be held with their correspondent banks in the several cities in which they operate, which results from state administration, is beneficial to all concerned and has negligible monetary policy significance. The justification and criterion for the Section 7 authority can only be monetary policy; the legislation and its history should make this clear.

If the objective of Section 7 is clearly focused on monetary policy, the problem of defining the additional authority needed by the FRB becomes more manageable. It becomes possible to avoid unnecessary encroachment on state administration and the related dual banking and states' rights philosophical conflicts, which dominated discussion in the House of Section 7 as well as Section 5. The three states most actively regulating foreign bank operations all administer reserve requirements in a manner which is effective from the standpoint of monetary policy. The FRB has made no contention to the contrary. The reserve ratios move in response to FRB changes. California and Illinois apply the FRB ratios without change; New York, while making responsive changes, maintains a slight differential from FRB ratios which has little monetary policy significance.

For these reasons equalizing the treatment of foreign and domestic banks through the administration of federal reserve requirements is unnecessary, unwise and confusing. There has been no demand from domestic banks for such protection; they have not claimed that there is unfair competition arising from differences in the administration of reserve requirements.

2. <u>Section 7 Should Not Be Applied to Subsidiaries, Agencies or Commercial Lending Companies</u>.

The FRB authorization to impose reserve requirements should not be applied to state chartered subsidiaries or to nondepository institutions because it is discriminatory without any offsetting monetary policy justification.

(a) <u>Foreign bank agencies</u> are offices prohibited by state law from taking domestic deposits. They may maintain credit balances in connection with their financial and payment transactions. New York law requires that these permissible credit balances be distinguished from prohibited deposits. FRB and New York do not agree on whether the distinction is important. We believe that credit balances by their nature are not a dependable, continuing source of funds against which to extend credit and, hence, are without significant impact on the money supply. The far larger aggregates of comparable transactions of domestic finance companies, brokers, etc. are not reservable. The quantities of agency credit balances are too small to have any measurable impact on the U.S. supply of money and credit. According to FRB statistics, total agency credit balances as of April 1978 were merely $391 million, or about 0.05% of total U.S. commercial bank deposits.

(b) Commercial lending companies are even less appropriate targets for those administering monetary policy. The 1976 House Banking Committee Report says that "commercial lending companies" means Article 12 New York investment companies and nothing else. There are fifteen -- six foreign-owned corporations and nine owned by U.S. shareholders. Like agencies, they cannot take domestic deposits and their credit balances are related to other transactions. As separately incorporated businesses, they should be excluded in the same manner as banking subsidiaries of foreign banks. They are subject to precisely the same regulations as the domestic New York Article 12 investment companies. The aggregate quantities of the credit balances of foreign-owned investment companies are insignificant in relation to the total supply of money and credit at which monetary policy is directed. FRB statistics show merely $440 million in credit balances as of April 1978. Also, as of April 1978, balances due from these companies to directly related offices abroad netted only $34 million.

(c) State chartered subsidiaries of foreign banks are not reached by Section 7 for good reason. Subsidiaries are more separate from their parents than branches from their home offices from both a legal and practical standpoint. They must be independently capitalized; they have no legal recourse for parental support. They do not have the relatively active advances from foreign affiliates as do branches, which the FRB has identified as the type of transaction giving rise to its most specific monetary policy concerns. These net balances were only $163 million as of April 1978.

3. Proposed FRB Authority over Reserves.

If Section 7 is found to be necessary, the FRB authority added by Section 7 should be confined to a monetary policy purpose and to branches only. In addition it should make explicit the division of responsibility suggested in the reference to state-FRB "cooperation" in Section 7(a)(1)(B) in a manner conforming to the limitations discussed above:

(a) Uniform Ratios. All reserve ratios should be determined by the FRB uniformly for all states in which foreign banks are operating. We understand that this would require no change in California and Illinois and only a slight change in New York.

(b) State Administration. Except for the determination of the applicable ratios, the state bank supervisors would continue to administer reserve requirements, determining where and under what conditions the reserves are held and how to define the transactions to be subject to reserves. This should result, for example, in no change in the treatment of agencies and commercial lending companies (if it is decided that Section 7 should apply to them) by the New York Banking Department, which generally imposes reserve requirements on deposits but not on credit balances.

(c) Voluntary Compliance. With respect to reserves relating to transactions moving money and credit in and out of the U.S., the FRB made a determination in 1973 that the administration of U.S. monetary policy required voluntary compliance from foreign banks in subjecting certain transactions to reserve requirements similar in part to those imposed on domestic international banks under Regulation M. The result was a 1973 letter from Chairman Burns to all foreign banks (a copy is appended hereto) carefully defining the requested compliance. Foreign branches, agencies, commercial lending companies and non-member subsidiaries are fully complying with the requested reserve requirements. The ratios have moved (generally down) when the comparable Regulation M ratios for domestic banks have been changed. If the FRB is uneasy, for reasons which we do not understand, about its ability to assure full compliance in the future with this system of voluntary reserve requirements, this Committee's Report could express the expectation that the states would cooperate, at the request of the FRB, in the enforcement of this system of voluntary compliance using the states' existing

30-563 O - 78 - 15

authority to administer reserve require-quirements. Foreign banks are frequently regulated abroad by voluntary compliance with central banks and make little distinction between such a "request" and a regulation. If compliance breaks down and state law is shown to be inadequate, a case may then have been made for the first time for adding to the powers of the FRB.

(d) Additional Authority. If the FRB contends that it needs additional authority to supersede state administration of reserve requirements after a period of living with the mandate to cooperate, the Bill provides a precedent for such a predicament. The former Section 7(d), authorizing the FRB to impose any or all of a wide variety of Federal Reserve Act regulations other than reserve requirements was deleted and replaced by a provision that the FRB would within two years advise the Congress of any additional authority needed. The present Section 7(d) invites recommendations with respect to implementation of the Act in any respect, but makes specific mention of certain subjects deleted from the former Section 7(d). Section 7(d) of the Bill could be broadened to include explicitly additional reserve setting authority.

(e) Report of Consultations with State Supervisors. Finally, if the Committee decides not to determine the respective roles of FRB and the state supervisors, Section 7 should be amended to assure that consultation and genuine cooperation between the regulators takes place by requiring a report to the banking committees of both Houses within one year of enactment, describing the consultations and cooperative arrangements agreed upon. Regulations implementing Section 7 should be effective within a reasonable period after this report is submitted.

The foregoing suggestions are generally consistent with Section 7 of the House Bill but would cut away unjustified loose and poorly defined discretionary authority and would remove the conflicting double standard of monetary policy and equal treatment. It responds fairly to the third point in Senator McIntyre's seven-point program on which we were asked to comment in the January 1976 hearings. Point 3 said "give the Fed, perhaps, a more direct handle, if appropriate, over foreign bank reserves".

V. NON-BANK AFFILIATIONS -- SECTION 8

Section 8 is receiving special attention from the EEC Banking Federation. Although the problem with Section 8 is by no means limited to banks from EEC countries, the many members of the Institute from other countries which are interested in improving Section 8 have participated directly or through others in the preparation of the Institute's position, which has been coordinated with the EEC Federation's position on Section 8.

1. Clarifying the Exemptions.

Section 8 applies the prohibitions against non-banking in Section 4 of the Bank Holding Company Act to foreign bank branches, agencies and commercial lending companies, retaining and somewhat expanding the foreign bank holding company exemptions provided in the existing Bank Holding Company Act and its regulations. The clarification and amplification of these exemptions, authorized by the 1970 amendments to the Bank Holding Company Act and amplified by the FRB proposals reflected in Section 8(e) of the Bill, reflect recognition that extraterritorial regulation of foreign bank holdings of foreign corporations would be difficult and unnecessary to the purposes of the Act.*/ The following

*/ Chairman Burns said the following to this Committee in 1970 commenting on the 1970 bank holding company amendments: "...[W]e believe that bank holding companies that are principally engaged in banking abroad should be allowed to retain interests in foreign-chartered nonbanking companies that are also principally engaged in business outside the United States. We do not believe Congress intended the Act to be applied in such a way as to impose our ideas of banking upon other countries...."

changes are recommended to carry out more clearly the objectives of the foreign bank exemptions:

(a) Non-banking subsidiaries of foreign banks which are incorporated abroad are exempted by Section 8 if over half of their business is outside the U.S. To achieve this purpose, it is necessary that such foreign subsidiaries be permitted to retain and make investments in U.S. corporations which are related to the overseas business activities of the foreign non-banking parent corporation. The Section 8(e) exemption recognizes this need by covering investments in the U.S. which are incidental to the business of the foreign non-banking parent. If it is decided that there is need for some defined limitation on the activities of U.S. subsidiaries of foreign subsidiaries of foreign banks, it is recommended that difficulties with the interpretation of the word "incidental", which is variously used in the banking statutes, be resolved by expanding "incidental" to include explicitly "the same line of business" as the parent. A workable method of determining a line of business, developed by the Commerce Department, has been in use since 1970 for registration by foreign and domestic bank holding companies and would be used to implement and give clarity to Section 8(e) as we suggest that it be amended.

(b) Section 8(e)(3)(A) denies the foreign bank holding company exemption to foreign banks with their principal banking subsidiaries in the U.S., even though most of their banking business may be done outside the U.S., either directly or through branches, or through a number of smaller subsidiaries, or through any combination thereof. This illogical and purposeless result appears to be unintended. We understand that the Federal Reserve Board may support elimination of Section 8(e)(3)(A), relying on the broad regulatory powers of Section 5(b) of the Act to enable the Board to prevent domestic banks or holding companies from taking advantage of the foreign bank exemption.

(c) Section 8(e) follows existing law and regulations in providing appropriate exemptions for foreign bank affiliations with foreign industrial and trading organizations doing most of their business outside of the United States, but denies this exemption if the U.S. activity is in the securities business, presumably on the grounds that securities affiliations are a more firmly entrenched prohibition under U.S. law than other types of non-banking. However, Section 8(e) departs from existing law and regulations, with no explanation in the House Report or elsewhere, by denying the exemption if the U.S. activity is "bank related" within the meaning of Section 4(c)(8) of the Bank Holding Company Act. Bank related affiliations would either be prohibited or permitted by special order of the Board. The resulting difference between the Bill and existing law means that foreign banks with branches in the U.S. would be treated differently in this respect than foreign banks with subsidiaries in the U.S. The FRB has not said why the exemption policy of the last eight years which covers bank related activities should not continue. Industrial affiliations are firmly prohibited by the Act and bank-related affiliations are permitted if approved by the Board for domestic bank holding companies. If the foreign bank exemption for foreign subsidiaries is justified by the remoteness of the foreign connections and distaste for extraterritorial regulation, it is difficult to understand why it should be available to the firmly prohibited industrial affiliations but not to the less objectionable bank related affiliations which may be permitted by Board order.

2. Coverage of Non-Depository Institutions.

Because Section 8 is an extension of Bank Holding Company Act policy, the principal of equal treatment requires that its non-banking prohibitions apply only where non-banking is affiliated with banking as defined in the Act. A "bank" is defined by Section 2(c) as an institution which accepts deposits. In administering the Bank Holding Company Act, the Federal Reserve Board has never contended that agencies or commercial lending companies (New York Article 12 investment companies) are "banks" within the meaning of the Bank Holding Company Act because each of them is denied by state law the power to accept domestic deposits. Edge Act Corporations, which are similar in many respects to agencies and commercial lending companies, are explicitly exempted from coverage of the Bank Holding Company Act. There are many types of U.S. financial institutions which make loans but do not take deposits and which overlap the functions of agencies and commercial lending companies; none of them is covered by the Bank Holding Company Act.

Thus the application of Section 8 to agencies and commercial lending companies is a clear discrimination based on foreign ownership. The question may remain as to whether the discrimination is justified by overriding requirements of federal bank regulation. From the standpoint of the purposes of the Bank Holding Company Act, the justification would have to be found in possible abuses arising from affiliation between non-depository lending companies and borrowers. There is no law or policy in the United States which goes so far as to preclude affiliation between the many types of financial institutions engaged in lending and the many types of businesses to which they lend.

Section 8 application to agencies and commercial lending companies is an unnecessary complication in the Bill which serves no significant purpose and should be removed.

3. Grandfather Date.

There is no need for retroactive application of Section 8 and, therefore, the difficult question of whether to grandfather and when can be avoided. The non-banking affiliations of foreign banks are established in the normal course of their investment banking business and not with an eye to legal opportunities in the U.S. If retroactivity is insisted upon, the grandfather date should be no earlier than the date on which the Senate reports out a bill.

VI. CONCLUSION

As you can see from our comments, the view from a foreign banker's perspective is to leave well enough alone. The imperfections of the bank regulatory system in the United States are by no means confined to the treatment of foreign banks and do not support the charge that foreign banks have a competitive advantage over domestic banks. Most of the proposed new federal regulations of foreign bank operations in the U.S. have their reflections in, and could usefully be overtaken by, proposals for changes in federal bank regulation, much of which is under active consideration: e.g., universal mandatory membership in the System or making membership more attractive; removing anticompetitive geographic restraints on multi-state banking; centralizing and rationalizing overlapping regulatory activities; review of Glass-Steagall policy.

The concern over the rapid increase in foreign bank assets in the United States has been stimulated by a distorting selection of statistics, comparing foreign bank and domestic bank asset growth in the U.S. The fact is that a changing world has created a surge of international economic activity of which the rapid growth in international banking is an important part. Not only in the United States, but also in most other industrialized countries, international banking is growing considerably more rapidly than domestic banking. The recent growth of foreign banking in the United States is in close step with the recent growth in foreign activities of U.S. banks. The U.S. banks led the world in exporting its banking services through the growth of its branches abroad, far outstripping foreign banking in the United States in the 1950's and 1960's. Foreign bank growth in the United States has only recently achieved growth rates approximating those of United States bank branches abroad.

We hope that this Committee, before deciding that legislation is necessary, will carefully consider the perspective from which we view the Bill and will closely examine our proposals for moderation of the Bill if it concludes that legislation is justified at this time.

ATTACHMENT

CHAIRMAN OF THE BOARD OF GOVERNORS
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

June 1, 1973

Dear Sir:

I am writing to seek your assistance in ensuring that recent actions taken by the Federal Reserve System in the interest of a healthy national economy can effectively accomplish this objective. Moderating inflation in the United States will benefit not only this country but also other nations and the international financial system.

As you know, the Board of Governors of the Federal Reserve System recently imposed a marginal reserve requirement of 3 per cent—over and above the 5 per cent previously required—on further increases in the total of funds raised by member banks from the issuance of (1) single-maturity time deposits of $100,000 or more, (2) deposits represented by certain commercial paper obligations such as promissory notes, acknowledgements of advances, and due bills, and (3) funds obtained by the bank from obligations issued by affiliates and subsidiaries of the bank. In addition, the Board set the reserve requirement at 8 per cent on increases, above a base that is being phased out, in certain foreign borrowings—primarily Euro-dollars—by U.S. member banks.

We believe that the effectiveness of the Board's recent actions in combating inflation would be substantially enhanced if you would conform to the 8 per cent reserve on any increase in your borrowings from banks abroad, including your head office. With respect to such increases, this treatment would parallel the reserves maintained by member banks against similar types of borrowings. For agencies, branches, investment companies affiliated with foreign banks, and U.S. subsidiaries of foreign banks, we would propose that the 8 per cent reserve be maintained against any additional increases in net funds obtained from foreign banks over the amounts obtained on average during the month of May. The amounts to be included would consist of net balances due to directly related institutions abroad together with net time deposits of and net borrowings from other foreign banks.

In addition to your cooperation with regard to the 8 per cent reserve on increased borrowings from foreign banks, we also invite your cooperation in conforming to the marginal reserve on deposits and liabilities noted above (first sentence of the second paragraph). This marginal reserve, as it applies to member banks, means that they must maintain additional reserves equal to 3 per cent of any growth in the total of the deposits and liabilities specified above in excess of a base amount. The base for computing the marginal reserve is the amount outstanding in the week ended May 16, 1973, or $10 million, whichever is greater.

As in the case of domestic nonmember banks—whom I have already requested to conform to the marginal reserve proposals—the additional reserves maintained by an agency, branch, investment company, or subsidiary should be deposited with a member bank of the Federal Reserve System of your choosing. The reserves as maintained would include the 8 per cent reserve on foreign borrowings and the 3 per cent marginal reserve on the other specified deposits and liabilities. The member bank receiving the deposit will be expected to redeposit 100 per cent of all such balances with its Federal Reserve Bank. Operating procedures, and details regarding the appropriate bases, will be provided by the Federal Reserve Bank.

I look forward to your cooperation in this voluntary program of credit restraint. Success in combating excessive increases in credit in this period is a matter of great national importance.

Sincerely yours,

Arthur F. Burns

SHAW, PITTMAN, POTTS & TROWBRIDGE
1800 M STREET, N.W.
WASHINGTON, D.C. 20036

(202) 331-4100

TELECOPIER
(202) 296-0694 & 296-1760

TELEX
89-2693 (SHAWLAW WSH)
CABLE "SHAWLAW"

JOHN H. SHARON
EDWARD B. CROSLAND*
COUNSEL

June 28, 1978

The Honorable Thomas J. McIntyre
Chairman
Subcommittee on Financial
Institutions
Senate Committee on Banking,
Housing and Urban Affairs
Room 5300 - U.S. Senate
Washington, D.C. 20510

Re: Hearings on H.R. 10899

Dear Senator McIntyre:

On behalf of the Institute of Foreign Bankers, I would like to make the following brief supplemental comments on the June 21 hearings for inclusion in the record.

1. Interstate Branching. Senator Stevenson and Chairman Miller have made somewhat similar proposals to compromise the interstate branching issue in Section 5. It should be recognized that these proposals are compromises only to the extent that they permit the branches of foreign banks in states other than the home state to take domestic deposits. The alleged foreign bank advantage exists only with respect to the right to accept domestic deposits. The Federal Reserve Board has so far offered nothing in this regard, and Senator Stevenson

offers to exempt from the interstate restrictions only domestic deposits received in connection with foreign trade. We believe that this is not an issue which can be constructively compromised and that the only change in Section 5 should be to confine it to branches and make it prospective.

2. FDIC Insurance. You asked Mr. LeMaistre whether wholesale and retail deposits could be distinguished and administered, and the response was positive. If you had in mind authorizing FDIC to limit mandatory insurance to those few foreign bank branches engaging in significant amounts of retail deposit business, we agree that the distinction can be administered and believe that the idea has merit in the form suggested in the Institute's statement. It certainly meets the comments of Ms. Siebert who made clear that her concern was with deposits by the man in the street and not corporate deposits. We believe that the most realistic such distinction and the one most readily administered and audited would be the classification by FDIC regulation of the owner of the deposit as an individual or corporation. "Off-the-street" deposits do not come to foreign bank branches from corporations. We believe that this distinction should be coupled with the exclusion of foreign owned accounts as in the House Bill (but more clearly defined as accounts owned by foreign citizens or residents of foreign countries.) These accounts are usually business generated because of the branches' home offices or foreign affiliates and do not rely upon FDIC insurance. Our statement at page 21 amplifies this suggestion.

3. Reserve Requirements. The FDIC Chairman, the Conference of State Bank Supervisors and the foreign bank witnesses have emphasized the discriminatory consequences of mandatory Federal Reserve Board reserve requirements, grafted on to the Federal Reserve Act which gives domestic banks the option of joining or leaving the Federal Reserve System. The Institute has urged that equal treatment in the administration of

reserve requirements is an inappropriate consideration against the background of discrimination in denying the option of federal or state reserve requirements. Since the hearings, the FRB has sent to your Committee on June 26 a plan to remove some of the inequality in treatment as between federal and state reserve requirements. Your Committee is reportedly planning to hold prompt hearings on this proposal. We believe that this new development reinforces our contention that any special Section 7 authority to impose reserve requirements on foreign bank operations in the U.S. should be at least limited to the clear requirements of monetary policy and not be entangled in the subject of your forthcoming hearings.

4. Limiting the Bill to Branches. The testimony of many witnesses supports the attractive prospect of simplifying this Bill by stripping away its discriminatory and unnecessary application to state-chartered subsidiaries and non-depository institutions. Agencies and commercial lending companies are not banks, as pointed out by Ms. Siebert, because they cannot take domestic deposits. The inability of agencies and commercial lending companies to take domestic deposits makes inappropriate any attempts to equalize their treatment with that of domestic banks under the federal laws at issue, all of which apply to depository and not to non-depository financial institutions. There is no monetary policy or depositor protection rationale for covering these non-depository institutions. Furthermore, coverage of commercial lending companies, which appears to mean the five or six New York Article 12 investment corporations, is a blatant discrimination because it has no application to the larger number of such corporations owned by U.S. corporations and citizens.

For different reasons banking subsidiaries should not be covered by this Bill. Interstate restrictions are already imposed on subsidiaries under Section 3(d) of the Bank Holding Company Act. Subsidiaries are subjected by existing federal law to mandatory FDIC insurance. Subsidiaries and their parents are also subjected

30-563 O - 78 - 16

to the non-banking restrictions of the Bank Holding Company Act. The FRB contention that subsidiaries be covered by mandatory FRB reserve requirements rather than state reserve requirements, would result in one more unnecessary discrimination and an imposition on the dual banking system. Most of the witnesses at your Committee's hearing appear to share this view. Even the House proponents of the most restrictive version of Section 7 never went so far as to say that state chartered banks should be treated differently because of foreign ownership.

Eliminating coverage of bank subsidiaries, which are already treated equally with domestic banks under existing federal law, and eliminating coverage of non-depository institutions, which cannot be fairly equated with domestic banks under federal statutes designed for depository institutions, makes possible much needed simplification of this complex Bill by confining it to branches and to its stated objectives.

5. Non-Banking Affiliations. The nearest thing to a consensus among the witnesses on June 21 was that the Bank Holding Company Act restrictions against non-banking should be applied to foreign bank branches with full grandfather protection. The consensus depends upon perfecting language to carry out the apparent intention of the House Bill and the FRB to avoid the necessity for the FRB to require divestitures and reporting as a result of foreign bank holdings of voting shares of a foreign corporation with over half its business outside the U.S. We hope that Mr. Miller's testimony that "technical changes" to Section 8(e), in addition to those presented at the hearing, would be offered shortly means that the FRB will concur in the following amendments of Section 8(e):

(a) U.S. subsidiaries of exempted foreign non-banking corporations should be covered by the exemption; and

(b) Although it is accepted that the exemption would not extend to securities affiliates in the U.S., there is no logical or practical reason why exemptions available to industrial and trading affiliates should not be equally available to non-banking financial affiliates and other bank-related affiliates which are either prohibited to domestic banks under Section 4(c)(8) of the Bank Holding Company Act or permitted by special order of the Board.

In addition, Section 8 should be limited to branches for reasons stated in paragraph 4, above.

6. Grandfathering. We believe that Sections 5 and 8 should be prospective for the reason that there is no indication that foreign banks are able or anxious to make their investment decisions on the basis of uncertain U.S. banking legislation which has been pending for three and one-half years. With respect to Section 5, if state supervisors wish to delay or approve new foreign bank applications for branch licenses in the face of the possibility of federal restrictions, that decision should be their prerogative and to require them to undo the approval actions would unnecessarily compound the impact of this Bill on the dual banking system. With respect to Section 8, the timing of investments in shares of non-banking companies by foreign banks which are competing abroad in the investment banking business is determined by opportunities, negotiations, many months of planning and, in some cases, changes in debtor/creditor relationships. It is impractical to decide today to make acquisitions before any action which might be taken by Congress in the next few months. If no action is taken this year, no reasonable assumptions can be made about the future.

If the Committee feels unable to legislate prospectively, thereby avoiding the grandfather issue, the logical grandfather date, reflecting the first effective notice that legislation is likely, will be the date on which this Committee reports out a bill.

It is our hope that these further comments may be useful to your Committee if it decides to design a bill for consideration by the Senate. We may also make some technical or drafting suggestions to Mr. Weber, which need not burden this letter. Thank you for your attention and courtesy at the hearings and for the constructive efforts of Mr. Weber in connection with these hearings.

Respectfully submitted,

Shaw, Pittman, Potts & Trowbridge

By Steuart L. Pittman
for the
Institute of Foreign Bankers

SLP/mdb

SHAW, PITTMAN, POTTS & TROWBRIDGE,
Washington, D.C., July 3, 1978.

Re: H.R. 10899, Entitled "International Banking Act of 1978"

Senator ADLAI E. STEVENSON:,
Committee on Banking, Housing and Urban Affairs,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENSON: I received your June 30 letter today requesting the Institute's comments on the proposal for modifying Section 5 of HR 10899 which you made at the June 21 hearings.

I submitted on behalf of the Institute on June 28 a supplementary comment on the June 21 hearings in which we included a brief comment on the Federal Reserve Board proposal and on your proposal. As you quite rightly point out, there is a conflict between two objectives: one to restrict the deposit-taking powers of foreign bank branches in secondary states to conform to restrictions on domestic banks and the other to avoid federal restraints on the rights of states to decide whether and how to give priority to efforts of their cities to achieve international financial center status. The House bills, both before and after the liberalizing Annunzio amendment, make no attempt to restrict the interstate activities of agencies which cannot take domestic deposits because domestic banks can in various forms engage in interstate activities comparable to those of agencies. Also, the Florida and Georgia agency laws both permit credit balances from domestic sources and deposits from foreign sources and the House apparently sought to avoid conflict with these existing state agency laws. The objectives of HR 10899 do not require that Section 5 apply to agencies of foreign banks.

Your proposal goes a step further in permitting foreign bank offices in secndary states to take deposits allowed by regulation to Edge Act Corporations owned by domestic shareholders. As I understand it, deposits would be permitted from domestic sources in connection with international trade. However, Section 3 of HR 10899 and all previous bills enables foreign banks to own Edge Act Corporations, so that a vehicle is provided already for doing substantially what you propose, particularly if the Edge Act is liberalized, as you are urging, with respect to capital ratios.

As a result, it appears that your proposal is substantially covered by the combination of a Section 5 which has never covered agencies and Section 3 making Edge Corporations available to foreign banks. It does not meet the problem that laws designed to attract foreign banks effectively must include the power to take deposits, which is the essence of banking.

We would like to be able to suggest a useful resolution of the conflict which you are addressing in order that the uncertainty of the pending legislation might be ended. We believe that any compromise must give the states a fair opportunity to attract foreign banks on terms which will enable them to participate in the market for the banking business of the large national and international corporations. This is the business for which the foreign banks compete with the U.S. banks in their own countries and in other financial centers outside the United States. They are not likely to be interested in substantial investments in U.S. cities unless they are able to compete for this same type of business, often the same corportations. Although they do not need or seek access to retail deposit business, with which the domestic interstate branching controversy is concerned, they do need to compete for the funds of the interstate and international corporations, which means offering those corporations a full line of banking services. We suggest that your own state of Illinois has, without the need for federal legislation, offered the most workable compromise which effectively serves the objectives of attracting foreign banks and avoiding competition between those foreign banks and local retail banking. The key is to restrict the foreign banks to a single location in a downtown metropolitan area which effectively denies them access to the Illinois retail banking market.

Regardless of judgments about the right formulation for a compromise, we find it difficult to understand why the issue should be resolved at the federal level rather than at the state level where the bank supervisors are more sensitive both to the competitive problems of the particular banking market and to the aspirations of the cities.

On behalf of the Institute, may I thank you for your constructive efforts to resolve this matter. I hope you will see our response as the candid expression of our view of this difficult problem even though we find ourselves unable to concur in your proposal.

Respectfully yours,

STEUART L. PITTMAN,
Counsel for Institute of Foreign Bankers.

Senator McINTYRE. Thank you, Mr. Bellanger.

Mr. Wolfgang Jahn, Board of Managers, Commerzbank. Mr. Jahn?

STATEMENT OF WOLFGANG JAHN, BOARD OF MANAGERS, COMMERZBANK

Mr. JAHN. Mr. Chairman, members of the subcommittee, the Banking Federation of the European Community is most grateful for the opportunity to testify again to the Congress about the proposed International Banking Act. With your permission, Mr. Chairman, my colleague, Mr. Peter Leslie, chairman of the Executive Committee of the British Bankers Association and general manager of Barclays Bank International Limited, will first speak to section 5. Mr. Paul Fabre, managing director of the French Banking Association, will then discuss section 8. I will complete our statement by addressing sections 6 and 7.

I would add, Mr. Chairman, that we are accompanied by several European bank officials and their counsel. We will supply their names to you at the close of this session, so that they may appear in the formal record.

While our comments are not identical with those submitted by the Institute of Foreign Bankers, we endorse the principles set forth in the Institute's written statement. We believe that those who are responsible for considering this legislation will find this statement both comprehensive and interesting, and we respectfully recommend it to your attention, together with our own.

STATEMENT OF PETER LESLIE, CHAIRMAN, EXECUTIVE COMMITTEE, BRITISH BANKERS ASSOCIATION

Mr. LESLIE. I shall, as Dr. Jahn has indicated, address section 5.

We endorse in principle section 5 as passed by the House of Representatives. The changes made by the House recognize that, least international financial markets be confined to two or three cities, other States and cities to fulfill any such desires but will allow the European opportunity to become strong international trade and financial centers as well. As presently written, section 5 will not only permit other States and cities to fulfill any such desires but wil allow the European banks better to serve the needs of their longstanding clients.

The issue of multistate banking, in our view, has often been misunderstood and misrepresented. It has been said that foreign banks enjoy rights and privileges to expand willy-nilly throughout the Nation which are denied their U.S. counterparts, and that these constitute a significant competitive advantage for foreign interests.

Mr. Chairman, we would submit that the facts are otherwise.

First, foreign banks may only conduct banking activities in more than one State in response to an express invitation and authorization of a host State.

Second, to the extent that concern over retail banking competition is at the heart of the dispute over multistate banking operations, we would note that Federal and State laws presently combine to inhibit foreign banks, as a practical matter, from multistate retail banking.

Third, the opportunities available to domestic banks for conducting banking business beyond the geographic confines of their own State include Edge Act corporations, loan production offices, and other bank-related financial operations. We believe that these options which are open to domestic banks dispel the notion that foreign banks would enjoy a competitive advantage in the area of multistate banking.

Mr. Chairman, we are, therefore, happy that these factors have been recognized in the adoption by the House of section 5. There is one revision, however, which we would like to mention which would further the principle of State choice recognized by the House. As set forth in our written statement, we suggest that section 5(a) be modified to treat subsidiaries in the same manner as branches. This is proposed in order to avoid the anomaly arising from the fact that some States now permit foreign banks to operate only through subsidiaries.

Thank you, Mr. Chairman.

Senator McIntyre. Thank you Mr. Leslie.

STATEMENT OF PAUL FABRE, MANAGING DIRECTOR, FRENCH BANKING ASSOCIATION

Mr. Fabre. Mr. Chairman, I will address section 8 of the bill.

As foreign bankers, we do not make any judgment on the U.S. policy of separating banking from nonbanking activities. However, as Chairman Burns said to the House committee in 1970 regarding the Bank Holding Company Act Amendments:

> We believe that bank holding companies that are principally engaged in banking abroad should be allowed to retain interests in foreign-chartered nonbanking companies that are also principally engaged in business outside the United States. We do not believe Congress intended the Act to be applied in such a way as to impose our ideas of banking upon other countries.

We were particularly pleased to note the statement of Chairman Miller today that the United States has different banking structures than many foreign countries, and that section 8 should not be read to inhibit the normal growth of investments of foreign manufacturing and industrial firms in this country which, he pointed out, are in the interests of the United States.

This is our precise point.

Our problem here arises from the fact that in Europe it is common for banks to have long-standing equity interests in industrial and commercial enterprises. We do not believe that Congress desires to disrupt established economic structures in Europe, or to enact harsh new rules which would deter job and capital generating foreign investment in the United States.

The deliberations in the House show that it did not intend simply to cut off foreign nonbanking activities here; unfortunately, in choosing a middle ground, the House, adopting language proposed by the Federal Reserve, did not really accomplish its goal. Under section 8(e) of the current bill, the exemption from section 4 of the Bank Holding

Company Act only applies to shares of companies organized under the laws of a foreign country and to shares of subsidiaries of such companies if they are "principally engaged in activities incidental to the business of the parent." The key term "incidental" is not defined in the bill, and its meaning remains unclear. However, prior interpretations of "incidental" under the Bank Holding Company Act and the Edge Act suggest that this term could be construed to prohibit a European company partly owned by a European bank from owning shares in a U.S. company engaged in activities other than those of a direct supplier or sales agency, which would necessarily be deemed "incidental." Such an interpretation would destroy settled business relations in Europe, and prevent useful investments here in the United States. And until the meaning of "incidental" is clarified, the uncertainty will deter even those investments in companies whose American operations might ultimately be deemed incidental to those of their foreign parents.

For these reasons, we propose that the vague "incidental" test be replaced by a standard which exempts the shares of any company organized under the laws of a foreign country and the "shares held or activities conducted by such company," so long as the company is principally engaged in business outside the United States.

Second, we urge that the grandfather date for nonbanking investments by foreign banks should be advanced from the present date of May 23, 1977, to the date of enactment of the bill. Because of the long history of this legislation, there was no way to predict when or in what form this legislation would finally be enacted. It would be unfair to penalize those investors who, in good faith, have invested in the U.S. economy since that date.

A third problem with the current bill arises from clause 3 of the amendments posed by section 8(e). This clause provides that a bank-holding company may not be considered to be principally engaged in business outside the United States if its "principal banking subsidiary" is located in the United States. We support the Federal Reserve Board's recommendation to eliminate this provision entirely.

In sum, we believe that section 8 of the proposed International Banking Act has several features which should be altered. If these changes are made, we believe Congress' basic intent can be achieved without harming European business or its capacity to contribute to the U.S. economy.

Senator McIntyre. Dr. Jahn?

Dr. Jahn. I shall limit, Mr. Chairman, my comments to sections 6 and 7 of the bill.

About section 6, we agree with the repeated recommendations of the FDIC to give foreign branches the option to be covered by insurance and not to make insurance mandatory. No reason exists for foreign banks to bear the additional costs of asset pledges and surety bonds, costs not applicable to domestic banks. At the very least, the FDIC should be given the authority to exempt a foreign branch upon a showing that it is covered adequately by insurance in its home country.

During the hearings before your subcommittee on an earlier version of the bill, in January 1976, you, Mr. Chairman, asked the question with regard to section 7, and I quote:

> **Why wouldn't the following adequately meet public objectives? Give the Fed. perhaps, a more direct handle, if appropriate, over foreign bank reserves.**

Whatever handle may be appropriate, it does not include the imposition of Federal reserve requirements on foreign bank operations. Any such imposition is not appropriate because no case can be made for treating foreign banks differently from any other nonmember State banks; no case has ever been made for discrimination against us.

I know that it is said foreign banks are totally different from State nonmember banks, because the latter are small and not involved with the international flow of funds. But neither of those two assertions is necessarily correct. As of December 31, 1976, there were a dozen domestic nonmember banks with total assets exceeding $1 billion—there may be more today. And there is nothing that prevents those banks from bringing in funds from the Eurodollar market or otherwise engaging in international financial transactions. Indeed, half of those banks have one or more foreign branches; and many of the others have correspondent relationships with foreign banks, or have international departments, or both. And there is nothing to prevent these and other nonmember State banks from continuing to expand their foreign operations without becoming subject to mandatory Federal Reserve requirements.

The second argument for discriminating against foreign bank operations in the United States is their affiliation with large foreign banks. We do not understand why the size of the parent has any bearing on where the foreign bank should keep its reserves in the United States: remember, under State law we must keep reserves. By contrast, and at least equally significant for monetary policy, American member banks have domestic holding company affiliates whose large demand liabilities such as travelers' checks are subject to neither Federal nor State reserve requirements.

And, if it were true that, in order to assure the Fed's conduct of monetary policy, the reserves on some $52 billion of standard banking liabilities of foreign banks have to be moved out of State control into Federal Reserve banks, then we cannot understand why it would not be equally true that the reserves on $285 billion of domestic nonmember banks must not also be so moved.

And speaking of the size of foreign banks, let me make a final comment. We believe the quantitative importance of foreign banks in the United States has been exaggerated and sensationalized. Total assets of all foreign banking entities in the United States this April amounted to $90 billion, and of those assets, $19 billion are assets of subsidiaries that are now under Federal regulation by the FDIC and subject to the constraints of the Bank Holding Company Act. So we are left with $71 billion under exclusive State control: That is, about 6 percent of total U.S. banking assets. The assets of foreign branches in the United States are less than one-fourth the size of the assets of U.S. branches abroad. With your permission, I would like to offer a memorandum prepared for us by the distinguished economist Mr. Oscar Gass that analyzes these orders of magnitude as well as some of the principal contentions of the Federal Reserve.

Senator McIntyre. I would be glad to have this placed in the record. Without objection it is so ordered.

[Complete statements and material referred to above follow:]

June 21, 1978

STATEMENT OF THE
BANKING FEDERATION OF THE EUROPEAN COMMUNITY
ON H.R. 10899, "INTERNATIONAL BANKING ACT OF 1978,"
BEFORE THE SENATE SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
BY DR. WOLFGANG JAHN
(BOARD OF MANAGERS, COMMERZBANK);
MR. PETER LESLIE
(CHAIRMAN, EXECUTIVE COMMITTEE, BRITISH BANKERS ASSOCIATION);
AND MR. PAUL FABRE
(MANAGING DIRECTOR, FRENCH BANKERS ASSOCIATION)

Dr. Wolfgang Jahn.

Mr. Chairman, members of the Subcommittee, the Banking Federation of the European Community is most grateful for the opportunity to testify again to the Congress about the proposed International Banking Act. With your permission, Mr. Chairman, my colleague, Mr. Peter Leslie, Chairman of the Executive Committee of the British Bankers Association and General Manager of Barclays International, will first speak to Section 5. Mr. Paul Fabre, Managing Director, French Bankers Association, will then discuss Section 8. I will complete our statement by addressing Sections 6 and 7.

I would add, Mr. Chairman, that we are accompanied by several European bank officials and their counsel. We will supply their names to you at the close of this session so that they may appear in the formal record.

While our comments are not identical with those submitted by the Institute of Foreign Bankers, we endorse the principles set forth in the Institute's written statement. We believe that those who are responsible for considering this legislation will find this statement both comprehensive and interesting, and we respectfully recommend it to your attention, together with our own.

Mr. Peter Leslie.

I shall, as Dr. Jahn has indicated, address Section 5.

We endorse in principle Section 5 as passed by the House of Representatives. In its version, the House realized that, lest international financial markets be confined to two or three cities, other states and cities throughout the United States should be afforded the opportunity to become strong international trade and financial centers as well. As presently written, Section 5 will not only permit other states and cities to fulfill their desires but will allow the European banks to better serve the needs of their long-standing clients.

The issue of multi-state banking, in our view, has often been misunderstood and misrepresented. It has been said that foreign banks enjoy rights and privileges to expand willy-nilly throughout the nation which are denied their U.S. counterparts, and that these constitute a significant competitive advantage for foreign interests.

Mr. Chairman, the facts are otherwise.

Firstly, foreign banks may only conduct banking activities in more than one state in response to an express invitation and authorization of a host state.

Secondly, to the extent that concern over retail banking competition is at the heart of the dispute over multi-state banking operations, we would note that federal and state laws presently combine to inhibit foreign banks, as a practical matter, from multi-state retail banking.

Thirdly, the opportunities available to domestic banks for conducting banking business beyond the geographic confines of their own state include Edge Act Corporations, loan production offices, and other bank-related financial operations. We believe that these options which are open to domestic banks dispel the notion that foreign banks would enjoy a competitive advantage in the area of multi-state banking.

We are, therefore, pleased that the House has recognized these factors in adopting Section 5. There is one revision, however, we would like to mention which would further the principle of state choice recognized by the House. As set forth in our written statement, we suggest that Section 5(a) be modified to treat subsidiaries in the same manner as branches. This is proposed in order to avoid the anomaly arising from the fact that some states now permit foreign banks to operate only through subsidiaries.

Thank you, Mr. Chairman.

Mr. Paul Fabre.

Mr. Chairman, I will address Section 8 of the bill.

As foreign bankers, we do not make any judgment on the U.S. policy of separating banking from non-banking activities.

However, as Chairman Burns said to the House Committee in 1970 regarding the Bank Holding Company Act Amendments:

> ". . .[W]e believe that bank holding companies that are principally engaged in banking abroad should be allowed to retain interests in foreign-chartered nonbanking companies that are also principally engaged in business outside the United States. We do not believe Congress intended the Act to be applied in such a way as to impose our ideas of banking upon other countries . . . ."

Our problem here arises from the fact that in Europe it is common for banks to have long-standing equity interests in industrial and commercial enterprises. We do not believe that Congress desires to disrupt established economic structures in Europe, or to enact harsh new rules which would deter job and capital-generating foreign investment in the United States.

The deliberations in the House show that it did not intend simply to cut off foreign nonbanking activities here; unfortunately, in choosing a middle ground, the House, adopting language proposed by the Federal Reserve, did not really accomplish its goal. Under Section 8(e) of the current bill, the exemption from Section 4 of the Bank Holding Company Act only applies to shares of companies organized under the laws of a foreign country and to shares of subsidiaries of such companies if they are "principally engaged in activities <u>incidental</u> <u>to</u> the business of the parent." The key term "incidental" is not defined in the bill, and its meaning remains unclear. However, prior interpretations of "incidental" under the Bank Holding Company Act and the Edge Act suggest that this term could be construed to prohibit a European company partly owned by a European bank from owning shares in a U.S. company engaged in activities other than those of a direct supplier or sales agency, which would necessarily be deemed "incidental." Such an interpretation would destroy settled business relations in Europe, and prevent useful investments here in the U.S. And until the meaning of "incidental" is clarified, the uncertainty will deter even those investments in companies whose American operations might ultimately be deemed incidental to those of their foreign parents.

For these reasons, we propose that the vague "incidental" test be replaced by a standard which exempts the shares of any company organized under the laws of a foreign country and the "shares held or activities conducted by such company" so long as the company is principally engaged in business outside the United States.

Secondly, we urge that the grandfather date for non-banking investments by foreign banks should be advanced from the present date of May 23, 1977, to the date of enactment of the bill. Because of the long history of this legislation, there was no way to predict when or in what form this legislation would finally be enacted. It would be unfair to penalize those investors who, in good faith, have invested in the

U.S. economy since that date.

A third problem with the current bill arises from Clause 3 of the amendments posed by Section 8(e). This Clause provides that a bank holding company may not be considered to be principally engaged in business outside the United States if "its principal banking <u>subsidiary</u>" is located in the United States. We support the Federal Reserve Board's recommendation to eliminate this provision entirely.

In sum, we believe that Section 8 of the proposed International Banking Act has several features which should be altered. If these changes are made, we believe Congress' basic intent can be achieved without harming European business or its capacity to contribute to the U.S. economy.

<u>Dr. Wolfgang Jahn.</u>

Mr. Chairman, I shall limit my comments to Sections 6 and 7 of the bill. About Section 6, we agree with the repeated recommendations of the FDIC to give foreign branches the option to be covered by insurance and not to make insurance mandatory. No reason exists for foreign banks to bear the additional costs of asset pledges and surety bonds, costs not applicable to domestic banks. At the very least, the FDIC should be given the authority to exempt a foreign branch upon a showing that it is covered adequately by insurance in its home country.

During the hearings before your Subcommittee on an earlier version of the bill, in January, 1976, you asked the question with regard to Section 7: "why wouldn't the following adequately meet public objectives?... Give the Fed, perhaps, a more direct handle, if appropriate, over foreign bank reserves." Whatever handle may be appropriate, it does not include the imposition of federal reserve requirements on foreign bank operations. Any such imposition is not appropriate because no case can be made for treating foreign banks differently from any other non-member state banks; no case has ever been made for discrimination against us.

I know that it is said foreign banks are totally different from state non-member banks, because the latter are small and not involved with the international flow of funds. But neither of those two assertions is necessarily correct. As of December 31, 1976, there were a dozen domestic non-member banks with total assets exceeding $1 billion -- there may be more today. And there is nothing that prevents those banks from bringing in funds from the Euro-dollar market or otherwise engaging in international financial transactions. Indeed, half of those banks have one or more foreign branches; and many of the others have correspondent relationships with foreign banks, or have international departments, or both. And there is nothing to prevent these and other non-member state banks from continuing to expand their foreign operations without becoming subject to mandatory federal reserve requirements.

The second argument for discriminating against foreign bank operations in the United States is their affiliation with large foreign banks. We do not understand why the size of the parent has any bearing on where the foreign bank should keep its reserves in the United States: remember under state law we must keep reserves. By contrast, and at least equally significant for monetary policy, American member-banks have domestic holding company affiliates whose large demand liabilities such as travellers' checks are subject to neither federal nor state reserve requirements.

And, if it were true that, in order to assure the Fed's conduct of monetary policy, the reserves on some $52 billion of standard banking liabilities of foreign banks have to be moved out of state control into federal reserve banks, then we cannot understand why it would not be equally true that the reserves on $285 billion of domestic non-member banks must not also be so moved.

And speaking of the size of foreign banks, let me make a final comment. We believe the quantitative importance of foreign banks in the United States has been exaggerated and sensationalized. Total assets of all foreign banking entities in the United States this April amounted to $90 billion, and of those assets, $19 billion are assets of subsidiaries that are now under federal regulation by the FDIC and subject to the constraints of the Bank Holding Company Act. So we are left with $71 billion under exclusive state control: *i.e.*, about 6% of total U.S. banking assets. The assets of foreign branches in the U.S. are less than one-fourth of the assets of U.S. branches abroad. With your permission, I would like to offer a memorandum prepared for us by the distinguished economist Mr. Oscar Gass that analyzes these orders of magnitude as well as some of the principal contentions of the Federal Reserve.

Mr. Chairman, please understand that we do not object to a law or regulation for which there are valid reasons of policy. We have been and shall continue to be proud of being good and law-abiding residents of your great country.

Thank you very much.

List of European Bank Officials, and Their Counsel,
Accompanying Spokesmen for the Banking Federation
of the European Community
At Hearings on H.R. 10899, June 21, 1978
Before the Senate Subcommittee on Financial Institutions

Dr. Theodor Heinsius, General Counsel
Dresdner Bank AG, Frankfurt

Michael C. Swift, Secretary-General
British Bankers Association

Philippe Marcilhacy, Deputy General Counsel
Compagnie Financiere de Suez, Paris

Arnold Ingen-Housz, Counsellor
Societe Generale, Paris

Dieter Munich, Counsel
Bayerische Vereinsbank (Union Bank of Bavaria), Munich

Gerhard O. Koenig, Director
Deutsche Bank AG, Frankfurt

Albert Dormanns, Head of the International Department
Association of German Banks

Counsel: William D. Rogers, Lawrence C. Maisel, Clifford D. Stromberg, Arnold & Porter
Franz Oppenheimer, Lowell D. Turnbull, Leva, Hawes, Symington, Martin & Oppenheimer
Harry R. Hauser, Gadsby & Hannah
Paul G. Kirk, Sullivan & Worcester
Albert D. Sturtevant, Chapman, Duff and Paul
Paul Gardner, Jr., Kennedy, Webster and Gardner

BANKING FEDERATION OF THE EUROPEAN COMMUNITY

Statement on H.R. 10899

1. The Banking Federation of the European Community (the "Federation") greatly appreciates the opportunity to explain its views on H.R. 10899, entitled the "International Banking Act of 1978". The Federation is composed of, and represents, the national banking associations of the nine countries of the European Community.

2. The banks of the European Community are vitally interested in the regulation of foreign banks doing business in the United States, and during the last three years, the Federation has therefore followed closely the various bills in Congress that would enact changes in the current system of regulation.

3. The European banks have been concerned that legislation which unduly narrows the scope of activities of European banks and U.S. industrial or commercial entities affiliated with such banks would deter European interests from new investments and business activities within the United States and distort accepted and traditional European methods of doing business.

4. The present bill in the form originally proposed in the House of Representatives would have had an adverse impact on the ability of foreign banks to operate in the United States; the bill as passed by the House contains significant changes ameliorating some of the problems

that the initial bill would have placed on foreign banks. The Federation welcomes these constructive revisions. However, there remain certain changes that, it feels, should be made to ensure practical legislation. None of these changes, which are discussed below, would, in its view, distort or frustrate the purposes of the legislation.

Section 5

5. Section 5 as finally adopted by the House - allowing foreign banks to branch in more than one state and permitting those banks to respond affirmatively to the needs and desires of various states and cities to become greater international financial and trade centers - looks in the right direction. It will also allow the European banks better to serve the needs of their long-standing foreign clients.

6. One aspect of Section 5, however, appears to be inconsistent. Section 5 would allow foreign banks operating in the United States to open "branches" in states seeking their presence under subsection 5(a)(1), but, under subsection 5(a)(3), preclude foreign banks from opening even a single subsidiary except in their home state, because some states now permit foreign banks to operate only through subsidiaries and, for reasons of state banking policy, may prefer, if possible,

to retain this requirement in the future. The Federation urges that Section 5(a) be modified to treat subsidiaries under the International Banking Act in the same manner as branches (subject to the provisions of the Bank Holding Company Act), as follows:

> "No foreign bank may operate a branch, agency, commercial lending company subsidiary, or subsidiary bank outside its home State unless (1) in the case of a State branch, agency ~~or~~ commercial lending company, or subsidiary bank, it is approved by the regulatory authority of the State in which such State branch, agency, commercial lending company or subsidiary bank is to be operated, and (2) in the case of a Federal branch or agency, its operation is expressly permitted by the State in which it is to be operated ~~and-(3)-in-the-case-of-a-bank,-its-acquisition-would-be-permissible-under-section-3-of-the-Bank-Holding-Company-Act-of-1956-if-the-foreign-bank-were-a-bank-holding-company-the-operations-of-whose-banking-subsidiaries-were-principally-conducted-in-the-foreign-bank's-home-State.~~"

7. In any case, a change in Section 5 should be made to correct what appears to be an inadvertent oversight on the part of the House. In amending Section 5, the House eliminated the grandfather clause in the course of eliminating the prohibition against interstate branching by foreign banks, but made no change in the opening language that "no foreign bank may operate a ... subsidiary...." As a result, were the bill passed in its present form, Section 5 would make it illegal for foreign banks to "operate" subsidiaries outside their home states. Several foreign banks, like a number of domestic bank holding companies protected by the grandfather clause in the Bank Holding Company Act, own subsidiaries in more than one state. Although the Federation feels that the House did not intend this result, these banks would be forced to divest themselves of any subsidiary outside their home states. By making this Section prospective, this problem would be corrected. This could be accomplished merely by changing "operate" to "establish or acquire" in Section 5(a):

> "No foreign bank may ~~operate~~ establish or acquire a branch, agency, commercial lending company subsidiary, or subsidiary bank outside its home State...."

Section 6

8. The branches and agencies of the banks of Europe doing business in this country are largely concentrated in wholesale banking. Consequently the Federation is not persuaded that the present intendment of Section 6 is the most appropriate. The European banks endorse various suggestions which have been made for change: either that the insurance be made mandatory only for those banks which are significant in retail banking; or that Federal Deposit Insurance be made voluntary, as suggested by the FDIC itself; or at least that banks could be exempted at the discretion of the FDIC.

Section 7

9. The Federation believes that Section 7 of the bill takes away from foreign banks the choice given American domestic banks of all sizes by the American dual banking system to have the amount and the location of minimum reserves determined by the state banking authorities. The Federation could not and would not object to federal minimum reserve requirements made applicable upon any criteria or distinction other than nationality; but it does not think it right to treat branches of foreign banks organized and existing under American state banking laws differently from domestic state banks.

10. The provisions of Section 7 would permit the Federal Reserve Board to impose different, and thus possibly more burdensome, reserve ratios on foreign branches and agencies than the ratios imposed on domestic banks of the same size. It is the Federation's view that this is not consistent with the principle of national treatment and non-discrimination on which the proposed legislation is said to be based.

11. The arguments advanced to justify this position are based on monetary policy and the flow of funds in and out of the United States. According to the Federal System, as of March 1978 (the latest figures available) total standard banking assets of foreign bank branches and agencies in the United States were $48 billion; or about 4 1/2% of the standard banking assets of the American domestic commercial banking universe (which includes the subsidiaries of foreign banks but not their branches and agencies) of $1,134.6 billion. By contrast the total standard banking assets of American non-member banks (other than non-member banks of foreign parentage) are more than five times as much: about $285 billion--and those $285 billion do not include the large assets of domestic bank-affiliated financial companies comparable to agencies of foreign banks such as lending, mortgage and leasing companies. The fact that monetary

policy evidently functions effectively enough without direct control over the more than $285 billion of banking assets suggests something about the importance of direct control over the very much less significant operations of foreign bank branches and agencies. The Federation is not aware of any evidence that would support the singling out of the operations of foreign banks.

12. As regards the arguments based on the necessity of regulating the international flow of funds, foreign banks make funds available to their U.S. affiliates, just as domestic banks raise funds for domestic purposes on foreign money markets. Neither foreign nor domestic banks make such transfers for purposes other than those of their regulated banking business. Again, the Federation does not believe that the imposition of federal reserve requirements on foreign branches and agencies is relevant to federal control over the flow of funds into and out of the United States.

13. All foreign banks, on the other hand, are at present complying fully with the voluntary request of the Federal Reserve that they furnish reports to the Federal Reserve System and maintain reserves in federal reserve banks on certain liabilities to foreigners. The Federation believes that this program has demonstrated the willingness of the foreign banking community to work cooperatively to achieve the purposes of the Board and

it would not object to the incorporation of this program into a mandatory statutory requirement.

14. In summary, the Federation urges that subsections 7(a)(1)(B) and 7(a)(3) of the House bill be deleted, and Section 7(a)(2) be amended to read as follows:

"(2) A Federal branch or Federal agency shall be subject to this subsection only if...."

Furthermore, subsection 7(c)(2) should be amended to delete the reference to paragraph 20 of section 9 of the Federal Reserve Act, as follows:

"Each branch or agency of a foreign bank, other than a Federal branch of agency, and each commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank, shall be subject to ~~paragraph 20 and~~ the provision requiring the reports of condition contained in paragraph 6 of section 9 of the Federal Reserve Act (12 U.S.C. ~~335 and~~ 321) to the same extent and in the same manner as if the branch, agency, or commercial lending company were a State member bank..."

Section 8

15. For various historical and economic reasons, many European banks have equity interests in industrial and commercial companies in their own countries. It is in this area that the differences of tradition, organization and practice

between the United States and most European Community states are particularly sharp.

The Federal Reserve Board proposed to this Subcommittee during the previous consideration of this legislation that Section 8 be changed to "to remove the constraints in the Bank Holding Company Act for those foreign banks that are properly organized at home and have equity investments abroad in various commercial or industrial enterprises including businesses that may conduct activities in the United States, as long as the principal business of those banks is done worldwide outside the United States and the principal business of those nonbank enterprises is also done worldwide outside of the United States." (Testimony of Governor Gardner, Hearings before the Senate Subcommittee on Financial Institutions, International Banking Act of 1976, August 31, 1976, p. 4). The House of Representatives incorporated the proposal put forward by Governor Gardner into H.R. 10899 -- and included a strong ban on less-than-arm's-length dealings between banks and related industrial and commercial firms.

But, the Board's language may not in fact achieve its intended purpose; in its application to the reality of European business practices and to future European industrial and commercial investment in the United States it could cause certain problems which, however, can be easily solved without distortion of the intent of the provision.

16. A particular problem arises from the exempting language of the proposed amendment of § 2(h) of the Bank Holding Company Act as set forth in Section 8(e). The exemption to which reference is made is presently limited to shares of any company organized under the laws of a foreign country and to shares of such subsidiaries of those companies as are "principally engaged in activities incidental to the business of the parent." The word "incidental" is not defined in the bill; its meaning is ambiguous and susceptible of later being construed narrowly. This is particularly true when viewed against prior interpretation under the Bank Holding Company Act and the Edge Act and could prohibit any activities, other than of a supplier or a sales agency, of a U.S. subsidiary of a European company partly owned by a European bank or bank holding company.

17. The language of the Section as it is presently written might be held to bar new European investments in the United States, even if highly desirable and appropriate, merely because the investment is being proposed by a firm which also has an interest in a bank with a U.S. branch, unless the investment is in an incidental supplier or sales agent to the European parent. It could even bar the investment in a new manufacturing plant in this country in spite of the fact that the plant was essentially parallel to, and the functional equivalent of, the manufacturing activities of a European parent if, in that parent's list of shareholders, there is a European bank with a U.S. branch or subsidiary. Because the record is clear that it is not the intention of the legislation to limit so severely the holdings of foreign banks, the Federation suggests that this potential difficulty can be overcome by modifying the first portion of the proposed amendment of Paragraph (2) of Section 2(h) of the Bank Holding Company Act as it appears in Section 8(e) to read as follows:

> "The prohibitions of Section 4 of this Act shall not apply to shares of any company organized under the laws of a foreign country (or to shares ~~of-any subsidiary-of-such-company-principally-engaged-in-activities-incidental-to-the-business-of-the-parent~~ held or activities conducted by such company) that is principally engaged in business outside the United States if such shares. . . ."

Such a change would do no harm to the regulatory framework proposed by the bill, would not discourage investment in the U.S., as would the present version, and would take into account the reality of the European economic structure.

18. Section 8 grandfathers all non-banking investment by foreign banks in the United States, including securities affiliates, a matter which was supported by all of the federal departments and agencies which testified before the House of Representatives on the bill. However, to the regret of the Federation, the language of the bill closes the American market to new foreign securities affiliates. The Federation believes that the bill could at least be made more equitable, again with no harm to the regulatory interests of the United States, were the grandfather date advanced to the date of enactment of the bill. Much controversy has surrounded this bill; it and its predecessors have been pending before Congress for many years and no one could predict what form the law would ultimately take. It is excessively severe to require banks which invested in U.S. securities affiliates during the past year and a half to divest them. This, however, would be the consequence of the present grandfathering date.

19. A third serious concern with Section 8 relates to the proposed amendment of Section 2(h) and its new subsection (3). There are many European banks which operate throughout the world through branches, but in the United States they

conduct their banking business through a subsidiary. As presently drafted, this provision would cause such banks to lose the exemptions otherwise available. The Federation agrees with the proposal of the Federal Reserve Board to omit this subsection.

OSCAR GASS *Consulting Economist*
1701 K STREET, N. W., WASHINGTON, D. C. 20006
(202) 331-1572

June 19, 1978

M E M O R A N D U M

WEIGHT AND STRUCTURE OF THE
FOREIGN PARENT BANKING PRESENCE
IN THE UNITED STATES

Findings

I. The 268 foreign-owned banking entities in the United States had (as of March 1978) Standard Banking Assets of some $66 billion -- equal to about 6% of the American domestic commercial banking universe.

II. Of this 6%, foreign-owned Subsidiaries account for about one-fourth. Branches are approaching one-half. Agencies make up another quarter. New York "Investment Companies" add a trifle.

III. To attain its 6% participation, the foreign banking Presence in the U.S. expanded considerably more rapidly in 1972-78 than did the average domestic American commerical bank. However this foreign expansion in the U.S. did not remotely approach the rate of growth of U.S. owned Branch banks abroad in 1964-72, and it approximately equaled the American foreign Branch rate of expansion in 1972-78. In the earlier period, the assets of U.S. bank Branches abroad multiplied by 11 times. In the latter period, both the foreign banking Presence in the U.S. and the

30-563 O - 78 - 18

U.S. owned Branches abroad each more than tripled its assets. Today, the foreign Branches of U.S. banks have three times the Standard Banking Assets of the entire foreign banking presence in the United States.

IV. Individually considered, in its local American credit market, the representative foreign-owned bank in the U.S. is small. Subsidiaries average about $458 million in "Standard" assets. When stripped of their liabilities to parents and affiliates, Branches average less than half the size of subsidiaries and Agencies just over one-quarter. Even the average foreign-owned Subsidiary is less than one-sixth the size of the 175 U.S. commercial banks which the Fed. has recently classified as "large." However, American critics of the "huge" foreign banks implicitly chain these individual banks into "families" and join them with their foreign parent -- making them large indeed. This indiscriminate chaining is a dubious act, since every foreign owned banking entity sited in the United States is subject to various particular Federal and State regulations, whether that entity be an incorporated Subsidiary, a Branch, an Agency, or a Commercial Lending Company.

V. The foreign banking Presence in the U.S. is characterized by high liquidity and high participation in large "Commercial and Industrial" loans. This high liquidity should be valued for its safety, instead of being wrongly stigmatized as permitting volatile movements of some unique kind, such as might justify discriminatory public control. The high participation in "Commercial and Industrial" loans should be valued for its contribution to American economic expansion, instead of being viewed askance and suspected of merely pre-empting credit opportunities that would otherwise accrue to domestic American commercial banks.

VI. The commercial banking Subsidiary is the structure of the foreign banking presence in the United States which fits most comfortably into the American banking scene. There is therefore reason for facilitating the resort to this structure by foreign banking interests, rather than discouraging it, as is done -- perhaps inadvertently -- by Section 5 of the pending legislation on foreign banking (H.R. 10899), in the form which this text emerged from consideration by the House of Representatives.

VII. We do not find anything in the weight or structure of the foreign banking presence, or anything in the necessities of national monetary control, that would justify these foreign nationals being subjected to the grave discrimination involved in denying them the choices afforded to American nationals by the Dual Banking system of the United States. Equal treatment requires that such foreign banking interests be allowed to choose the full status of State banks not members of the Federal Reserve System. This equality means that such foreign interests will continue to be accorded access (for their

Subsidiaries, Branches, Agencies, and Commercial Lending Companies) to the regulatory systems and reserve requirements prevailing in the several States which welcome such a foreign banking presence. Equally it means that these foreign banking interests will remain subject to all National regulations -- legally mandatory or formally "voluntary" -- with which all American banking and lending interests must comply.

Number of Foreign Parent Banking Entities

1. The first -- avowedly crude -- measure of the magnitude of the foreign parent banking presence in the United States is constituted by the number of foreign parent entities which may be described -- more or less accurately -- as engaged in banking activities in this country. The growth of this number is traced in the following table, which covers the period of five years and four months from November 1972 through March 1978. (These are the first and last months for which systematic information is now available.)

Foreign Parent "Banking" Entities Operating in the U.S.

	Nov. 1972	Dec. 1974	March 1978
Subsidiaries of foreign parents	25	30	38
Branches of foreign parents	26	57	103
Agencies of foreign parents	50	75	122
Investment companies of foreign parents	3	3	5
Total "banking" entities	104	165	268

Sources: Data for 1972 and 1974 presented by Federal Reserve in Hearings of July 12, 1977 (page 42ff.) of House Subcommittee on Financial Institutions. Data for March 1978 kindly supplied by Federal Reserve staff on International Banking.

2. In its own tabulations, the Federal Reserve refers only to the separately incorporated subsidiaries as "Commercial Banks." However, in our evaluation, the "branches" of foreign parents are equally banks in the U.S., for almost all business purposes, though hitherto excluded from FDIC insurance.

A rather different evaluation seems appropriate for the important "Agencies" and the least important New York "Investment Companies." The "Agencies" have no right to accept deposits from American clients and are permitted to accept clients' deposits from abroad only in California: though they lend money and hold resulting credit balances, they can hardly be called "banks" without substantial qualification.

As is clear from the above table, it is the "branch" form which has grown most rapidly in recent years, adding 77 to their number in 5 1/3 years, while "agencies" have added 72, subsidiaries 13, and investment companies 2. (As we shall see below, in business volume, the "branch" form has become even more predominant.)

3. If we call only the subsidiaries and branches of foreign parents "banks," then their number in March 1978 had reached 141. If we include agencies and investment companies, their number is 268.

For the same month of March 1978, the Federal Reserve reports the U.S. to have had 14,683 commercial banks, of which 5,656 were members of the Federal Reserve System. Since November 1972, the total number of U.S. commercial banks (as defined by the Federal Reserve System) had increased by 759, while the number of members of the Federal Reserve System has declined by 45. As a study by the Federal Reserve Staff has shown (Fed. Res. Bulletin, Jan. 1978, pages 12-13), since 1960 new American banks have chosen -- like foreign-parent banks -- to be non-members of the Federal Reserve System rather than members. Moreover, the deposit growth of non-member banks has been more rapid than that of member banks.

Foreign Parent Banking Assets

4. By the widest of reasonable definitions (the one used by the Federal Reserve tabulations), the Standard Banking Assets of foreign parent entities have grown by some $47.97 billion in the United States during these 5 1/3 years. A definition which recognized only subsidiaries and branches as banks, would show a narrower growth of $41.87 billion. The restricted group of subsidiaries (the only one denominated "Commercial Banks" in the Federal Reserve reporting) has grown by only $12.37 billion.

The facts are indicated in the following table.

Assets of Foreign Parent Banking Entities in the U.S.

(in billions of dollars)

	Nov. 1972	Dec. 1974	March 1978
A. "Standard" Banking Assets			
Subsidiaries	$ 3.75	$ 9.53	$16.12
Branches	3.28	8.58	31.78
Agencies	9.96	18.15	16.62
Investment companies	1.08	1.88	1.52
All entities	18.07	38.14	66.04
B. Assets arising from transactions involving parent and affiliates	6.24	17.73	30.01
C. Total Assets (sum of A + B)	$24.32	$55.87	$96.05

Sources: As indicated in previous table. March 1978 details in appendix.

5. Clearly the foreign banking presence in the U.S. is continuing to grow, though at a lower rate in the most recent 3 1/3 years than in the earlier two.

Branches have become the dominant form. Subsidiaries have shown strong growth. Agencies are relatively declining (being now really important only in Japanese and Canadian parentage). Investment companies are stagnant, in insignificant size.

6. During these five years and four months, the Total Assets of all U.S. commercial banks have grown from $691.6 billion (Nov. 1972) to $1,134.6 billion (March 1978). The increase is $443.0 billion, or just over 64%.

In magnitude, as of March 1978, the Standard Banking Assets of all the foreign banking entities in the U.S. come to less than 6% of the magnitude of the total U.S. commercial banking universe. In business expansion, even at the maximal $47.97 billion total, the growth of "banking" entities of foreign parentage comes to less than 11% of the U.S. commercial bank growth in the same 5 1/3 years.

Foreign Parent Banking Liabilities

7. An analysis of the Liabilities side indicates that the participation of foreign banking entities in the U.S. economy has operated to support the U.S. balance of payments. These entities are vehicles for the inflow of capital into the United States. "Standard" Banking Assets have been consistently larger than "Standard" Banking Liabilities plus Equity -- and by a large margin. The following summary table indicates the discrepancy running through the whole 1972-78 period.

(values in billions of dollars)

	November 1972	December 1974	March 1978
"Standard"banking Assets of all foreign parent entities	$19.07	$38.14	$66.04
"Standard" banking Liabilities plus Equity of these entities	-11.27	-31.73	-54.90
Excess of "Standard" Assets	$ 7.80	$ 6.41	$11.14

The difference arises consistently from the net amount due from these entities, sited in the United States, to their foreign parent sponsors.

8. Subject to this qualification, the Liabilities of foreign parent banking entities show a growth pattern similar to the Assets trend. This parallel is indicated in the following table.

Liabilities and Equity Of
Foreign Parent Banking Entities in the U.S.
(in billions of dollars)

	November 1972	December 1974	March 1978
A. "Standard" Banking Liabilities			
Subsidiaries	$ 3.17	$ 8.59	$15.57
Branches	2.73	6.25	21.16
Agencies	3.88	13.74	14.48
Investment companies	0.83	1.57	1.10
All entities	10.61	30.16	52.31
B. Combined capital and reserves	0.66	1.57	2.58
C. Liabilities arising from transactions involving parent and affiliates	13.05	24.14	41.15
D. Total Liabilities and Capital	$24.32	$55.87	$96.05

Sources: As indicated in first table. Details for March 1978 in appendix.

As on the Assets side, the values above indicate the emergence of branches, the steady growth of subsidiaries, the relative decline of agencies, and the tiny role of the investment companies.

Special Character of Underlying Assets

9. The foreign parent banking entities have two outstanding characteristics: first, their relatively heavy participation in Commercial and Industrial loans; second, their large share in liquid money-market assets. In Federal Reserve circles, both of these characteristics are emphasized -- dominantly, perhaps negatively. We find such negatives quite without merit. They reflect only a reaction to the fact that foreign bankers are now beginning to lend in New York, Chicago and San Francisco, as American banks have long been lending -- on a larger scale -- in London, Paris and Frankfurt.

10. With respect to Commercial and Industrial loans, the Federal Reserve shows all U.S. insured banks holding $186.7 billion worth, in total assets of $1,066.8 billion, as of Sept. 30, 1977 (Fed. Res. Bulletin, April 1978, page A18, line 54).*/ In a near month (Nov. 1977), foreign parent banking entities held $25,929 million of commercial and industrial loans in total "Standard" banking assets of $55.4 billion. By March 1978, these foreign parent banking entities had increased their holdings of commercial and industrial loans to $28,866 million. Clearly the foreign banks are indeed heavily concentrated in this sphere. And clearly this concentration is greatly constructive for the expansion of the U.S. economy.

11. Clearly also the foreign parent banking entities in the U.S. are highly liquid. In March 1978, of $66.0 billion

*/This total excludes the loans of foreign parent banks other than subsidiaries, because these others are not insurable under present U.S. legislation.

of "Standard" banking assets, they held $20.9 billion in inter-bank loans and deposits and another $6.1 billion in readily negotiable U.S. Government securities and loans to security dealers. Sometimes this liquidity is pointed to as a source of strength. More often it is stigmatized as a source of volatility, requiring control.

Still, in balanced appraisal of the liquid resources quickly available to the American banking system, the entire liquid holdings of the Foreign Banking Presence in the U.S. can only be described as picayune. In March and April 1978, the net purchases of Federal Funds by those of the largest 46 U.S. money market banks who were net buyers averaged about $20 billion per week. (At the maximum Federal requirement of reserves, this $20 billion would serve to support over $120 billion of additional demand deposits.) At the end of March 1978, U.S. commercial banks also held $137 billion of liabilities to foreigners (excluding the IMF), and these liabilities were growing at a rate of about $40 billion per year. Moreover, the Total Assets/Liabilities of the Branches abroad owned by U.S. parent banks were approaching $260 billion and also growing at a rate in the range of $40 billion per year. Finally, beyond these immediate tangibles, lies the greater pool of liquidity available to a strong U.S. bank in the resources of the general Eurodollar and Eurocurrency markets. In this broad perspective, the monetary volatility attributable only to the foreign parent banking entities sited in the U.S. -- entities whose international transfers are subject to any mandatory or "voluntary" restrictions or reserves established by U.S. banking authorities -- does indeed shrink into comparative insignificance.

12. The Subsidiary banks of foreign parentage in the United States today, are not individually large banks. Measured by "Standard" Banking Liabilities plus capital accounts and reserves, their total funds, in March 1978, came to $17,393 million, for 38 Subsidiary banks. This averages out to about $458 million per bank. It is less than one-sixth of the average size of the 175 U.S. banks which the Federal Reserve characterized as "Large" member banks in its own tabulation of September 30, 1977 (Fed. Res. Bulletin, April 1978, page A19). In New York City, the Federal Reserve then classified only 12 banks as "Large," and these had average assets of $12.9 billion. In Chicago, it found only 9 banks to be "Large," and these had average assets of $4.5 billion.

The Subsidiaries of foreign parentage, while smaller, are however nearer, in liabilities structure, to ordinary U.S. banks than any other bank-related institutions of foreign parentage. Of their (March 1978) total "Standard" banking liabilities of $15,572 million, some $11,919 million were deposits of U.S. residents. The interbank borrowings of these Subsidiaries were also quite small -- $1,173 million for the entire group of 38 (out of a total of $17,198 million for the whole group of foreign parent banking entities). Similarly, their liabilities arising from transactions involving their foreign parents and affiliates were comparatively small -- only $1,867 million (out of a total of $41,149 million for the whole group). These Subsidiary banks had their own capital and reserves of $1,821 million -- equal to 11.7% of their standard banking liabilities. They are insured by the FDIC. More than any other form of the foreign banking presence in the United States, the Subsidiaries are quite normally assimilated to the American banking environment.

It is therefore doubly anomalous that the pending legislation "To provide for Federal Regulation of participation by foreign banks in domestic financial markets" (H.R. 10899), as it emerged from the House of Representatives, puts special barriers in the way of establishing new Subsidiaries of foreign banking parents. While the States are left free to accord welcome to branches, agencies, or commercial lending companies (Section 5(a)), they are not made equally free to welcome a Subsidiary -- even a first one. Perhaps this was an inadvertence. Certainly it is an inconsistency.

13. Taken individually, the Branches of foreign parents and the Agencies of these parents are smaller (in March 1978) than are the Subsidiaries, on the average. The 103 Branches

have $21,159 million of "Standard" liabilities plus $323 million of capital and reserves, for an average size of $209 million. And the 122 Agencies have "Standard" liabilities of $14,478 million plus $265 million of capital and reserves for an even smaller average of about $121 million.

However, in the perspective of their opponents, these relatively small entities -- small in their individual banking markets -- are not what counts. Each individual bank -- the Subsidiary in New York, the Branch in Chicago, and the Agencyin California -- is first to be joined in a U.S. resident "family" and this "family" is then united with the parent abroad. The resulting total is then, of course, a "large" bank, by any standard. However, as we have indicated above, every part of this "family" -- in so far as it acts in the U.S. -- is subject to distinctive State and Federal controls.

The Liabilities structure of Branches does somewhat approximate that of the Subsidiaries. Branches now hold $7,733 million of deposits of U.S. non-bank residents (alongside $11,919 million of such deposits held by Subsidiaries). However all the 122 Agencies and the 5 Investment companies together are not significant holders of U.S. resident non-interbank deposits or credits. The 122 Agencies hold only $819 million of such deposits and credits and the 5 Investment companies only $61 million.

As the detailed appended table shows, the Liabilities of the Agencies and Investment companies are dominantly to parents, affiliates, and other banks. In the case of Agencies, liabilities to parents and affiliates and to other banks make up $24.87 million out of $29.62 million of total liabilities and equity. For investment companies, the corresponding ratio is about two-thirds.

These differences of structure are explanatory of the dubious relevance of deposit insurance to Agency operations. They are also supportive of the present practice of freeing Agencies from fractional reserve requirements: if reserves were imposed against U.S. resident funds held, other than borrowing from other banks, the reserves required of Agencies would be trifling. It is difficult to see on what sound basis such reserves could be calculated, or how they would serve the purposes of depositor safeguard or monetary control.

Time Perspective

14. What is perhaps most lacking in current American perspective, on the expansion of foreign parent banking in the U.S., is balanced time judgment. What Americans fail to see is that other developed countries (particularly those of Europe and Japan) are expanding their banking presence in the U.S., in the 1970's, somewhat in the same manner -- though more slowly -- that the U.S. expanded its banking presence in all

the world a decade earlier and just as the U.S. continues to expand this world presence again in these present years.

15. In 1964, only eleven U.S. banks had branches abroad (a total of 181 branches).*/ At the end of that year, the gross assets of those foreign branches were $6.0 billion. By December 1972, some 108 U.S. banks had 627 foreign branches, with gross assets abroad of $80.0 billion.

16. In the 5 1/3 years from November 1972 to March 1978, foreign interests have expanded their gross banking presence in the U.S. from $24.32 billion to $96.05 billion. From November 1972 through January 1978 (the last month available), the gross assets abroad of U.S. branches alone have risen to $258.8 billion.

On a net basis (deducting assets arising from transactions among parents and affiliates), the foreign bank presence in the U.S. -- in all its forms -- has expanded by about $48 billion in these five years. On the same net basis, U.S. branches alone have expanded abroad (from $62.87 billion to $197.53 billion) by some $135 billion (in a slightly shorter period).

---

*/See Fine study, issued by House Committee on Banking ...Book II, June 1976, pages 809ff. for gross figures, inclusive of parent and affiliate assets. For net figures, see relevant date issues of Bulletin of Federal Reserve, as issued monthly.

17. Yet it must be acknowledged that, to many Americans, even quite sophisticated ones, the $135 billion net five-year expansion of U.S. owned bank Branches abroad seems entirely normal and natural, while the simultaneous $48 billion expansion of the entire foreign banking presence (subsidiaries, branches, agencies, etc.) in the U.S. seems dangerous and calling for new, protective controls of the U.S. monetary system.

Monetary Control

18. Having regard to the limited weight of foreign parent banking in the total U.S. banking universe, it does not seem that the efficacy of American monetary controls necessitates a discriminatory deprival of foreign banking entities of equal access to the U.S. system of Dual Banking regulation. At most, the entire foreign banking presence in the U.S. approaches something like 6% of the size of the U.S. commercial banking universe. Commerical banks, incorporated under American law but not members of the Federal Reserve System, now account for between 26% and 27% of the assets of this universe. Even within the narrow confines of commercial banking, the foreign entity is not alone. And we have deliberately chosen to abstain from enlarging the universe by considering also the savings institutions, mortgage companies, leasing companies, and lending companies, who engage in overlapping activities. What we have suggested for the weight of the foreign banking presence is a clear maximum.

30-563 O - 78 - 19

19. No serious advocate claims immunity, in the United States, for foreign banking entities, from any national banking regulation that applies to <u>all</u> comparable entities of U.S. origin. No such immunity is rightly claimed with respect to bank examination and reporting, or fractional bank reserves, the importation of funds, or their exportation.

20. However, where a Dual choice is allowed to American nationals, as in reserve regulation by the various States or by the single Federal Reserve system, the same right of choice is claimed for friendly foreign entities. And consideration is asked for the reasonableness of a somewhat different outcome of rational choice by a foreign Subsidiary or Branch than might be made, under what seem grossly similar circumstances, by an American bank. Where the American might look to the Federal Reserve as his ultimate credit resource, the foreigner may look to his parent bank -- and, so looking, the foreigner may make the different choice which the American system of Dual Regulation permits. Making that choice, he may ask that his required banking reserves be fixed by the authorities of the several States, for whatever subsidiary, branch, agency, or commercial lending company that State welcomes him to establish.

21. We underline the fact that with respect to Federal Reserve regulation of the inflow or outflow of funds, to or from the United States, the foreign banking presence has uniformly been <u>voluntarily</u> cooperative. It has complied with all

requests for reporting and for the holding of special reserves. It is therefore a matter of indifference, to the foreign banking presence, if this particular area of regulation is made mandatory by National law or left to voluntary compliance as hitherto..

22. With respect to monetary control through alteration of general banking reserve requirements, for banks which are members of the Federal Reserve System, we would note only that such alterations have not recently been a significant instrument of Federal Reserve monetary control. For net demand deposits, the requirements in effect in June 1978 are the same as those which have been in effect since December 30, 1976. For time and savings deposits, the 3% minimum average required by law has been the chief regulator for over a decade. Changes in the reserve status of large certificates of deposit, and in the reserves required for international interbank lending, are of minor weight. For the most part, control of the supply of money has been exercised through open market operations. As such operations affect changes in the quantity of money and of interest rates, their influence is spread throughout the economy -- affecting banks not members of the Federal Reserve System together with member banks.

23. When monetary policy and monetary control are being generally discussed, and precisely by authoritative spokesmen

for the Federal Reserve System, the issue of any supposed obstacle constituted by the Foreign Banking Presence in the United States, is not so much as mentioned. So, to take one recent example, the Federal Reserve Bulletin of April 1978 contains a systematic review of "Monetary Policy and Open Market Operations in 1977." In fourteen pages of text, many problems are indicated but any obstacle to policy constituted by the foreign Banking Presence -- outside the Federal Reserve System -- is not so much as hinted. The Federal Reserve Bank of New York, in its Quarterly Review for Spring 1978 reprinted the same analysis, and it added several charts, but the Reserve Bank found no need to add any mention of a supposed obstacle to U.S. monetary policy from the presence in the United States of foreign banking entities outside the Federal Reserve System membership or its reserve requirements ambit.

It should be a subject of some reflection that this imagined obstacle to U.S. monetary policy arises, even in Federal Reserve minds, only when the immediate issue is the one of bringing the foreign bank presence within the further administrative control of the Federal Reserve System.

Appendix: "U.S. Banking Institutions Owned by Foreign Banks -- March 1978"
First Page: Assets
Second Page: Liabilities

JUNE 01, 1978

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN ----MARCH 1978
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	AGENCIES	BRANCHES	COMMERCIAL BANKS	INVESTMENT COS.
TOTAL ASSETS	96,046	29,615	44,987	19,260	2,184
ASSETS OF "STANDARD" BANKING BUSINESS	66,037	16,617	31,785	16,116	1,520
LOANS AND CREDITS	33,049	9,702	13,624	9,087	636
COMMERCIAL AND INDUSTRIAL **	28,866	9,613	13,286	5,345	622
(U.S.)	(21,404)	(7,206)	(9,135)	(4,543)	(520)
(FOREIGN)	(7,462)	(2,407)	(4,151)	(802)	(102)
MISC. U.S. LOANS INCLUDING RETAIL	4,183	89	338	3,742	14
MONEY-MARKET ASSETS	27,026	5,776	16,052	4,597	601
INTERBANK LOANS AND DEPOSITS	20,885	4,528	14,634	1,396	326
(U.S.)	(11,795)	(2,711)	(7,759)	(1,164)	(161)
(FOREIGN)	(9,090)	(1,818)	(6,875)	(232)	(166)
LOANS TO SECURITY DEALERS	1,657	865	554	238	0
U.S. GOVT. AND AGENCY SECURITIES	4,484	383	863	2,964	275
MISCELLANEOUS ASSETS	5,961	1,138	2,109	2,432	282
ASSETS ARISING FROM TRANSACTIONS INVOLVING PARENT AND AFFILIATES	30,009	12,999	13,202	3,144	664
CLEARING BALANCES DUE FROM OTHERS	10,910	1,809	6,657	2,234	210
DUE FROM U.S. BANKING AFFILIATES	6,103	4,251	1,602	200	49
DUE FROM FOREIGN PARENT & AFFILIATES	12,996	6,938	4,943	710	404

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

** INCLUDES CUSTOMERS' LIABILITIES ON ACCEPTANCES OUTSTANDING AND ON DEFERRED PAYMENT LETTERS OF CREDIT.

Made available by courtesy of

International Banking Section

Federal Reserve System

U.S. BANKING INSTITUTIONS OWNED BY FOREIGN BANKS
FOR MONTHLY REPORT DATE IN ----MARCH 1978
(IN MILLIONS OF DOLLARS)

	ALL REPORTERS	AGENCIES	BRANCHES	COMMERCIAL BANKS	INVESTMENT COS.
TOTAL LIABILITIES AND EQUITY	96,046	29,615	44,987	19,260	2,184
LIABILITIES OF "STANDARD" BANKING BUSINESS	52,314	14,478	21,159	15,572	1,104
LIABILITIES TO CORPORATIONS AND OTHER NON-BANKS	29,444	2,207	13,531	13,281	426
DEMAND DEPOSITS AND CREDIT BALANCES	6,372	415	1,593	4,224	140
TIME AND SAVINGS DEPOSITS AND OTHER BORROWINGS	23,072	1,791	11,938	9,057	286
(DEPOSITS OF U.S. RESIDENTS)	(20,531)	(819)	(7,733)	(11,919)	(61)
(DEPOSITS OF FOREIGNERS)	(8,913)	(1,388)	(5,798)	(1,362)	(365)
MONEY-MARKET LIABILITIES					
INTER-BANK BORROWINGS AND DEPOSIT LIABILITIES	17,198	10,001	5,601	1,173	423
U.S. BANKS	16,119	9,885	4,960	871	403
FOREIGN BANKS	1,079	116	642	302	19
MISCELLANEOUS LIABILITIES	5,671	2,271	2,027	1,118	255
LIABILITIES ARISING FROM TRANSACTIONS INVOLVING PARENT AND AFFILIATES	41,149	14,872	23,505	1,867	906
CLEARING BALANCES DUE TO OTHERS	10,490	2,643	5,809	1,322	717
DUE TO U.S. BANKING AFFILIATES	6,646	2,455	4,073	102	16
DUE TO FOREIGN PARENT AND AFFILIATES	24,014	9,774	13,624	443	173
CAPITAL ACCOUNTS AND RESERVES	2,533	265	323	1,821	174
NUMBER OF REPORTING INSTITUTIONS	268	122	103	38	5

NOTE: DETAILS MAY NOT ADD TO TOTALS DUE TO ROUNDING.

** INCLUDES CUSTOMERS' LIABILITIES ON ACCEPTANCES OUTSTANDING AND ON DEFERRED PAYMENT LETTERS OF CREDIT.

ARNOLD & PORTER
1229 NINETEENTH STREET, N. W.
WASHINGTON, D. C. 20036
TELEPHONE: (202) 872-6700
CABLE: "ARFOPO"
TELEX: 89-2733

June 30, 1978

Senator Thomas J. McIntyre
Chairman, Subcommittee on Financial
Institutions, Senate Committee on
Banking, Housing and Urban Affairs
Washington, D.C. 20510

Dear Mr. Chairman:

The members of the Banking Federation of the European Community and their counsel have asked that I reply to your request to the panel of witnesses during the hearing on the International Banking Act on June 21 for comments on the proposal put forward by Senator Stevenson.

As we understand it, Senator Stevenson was suggesting that the issue of interstate branching of foreign banks, now dealt with in Section 5 of the Bill, but as to which several witnesses interposed objections, be "compromised". He would liberalize the

---

This letter is being submitted by the firm of Arnold & Porter, on behalf of its client, the French Banking Association, 18 rue LaFayette, 75009 Paris, France, which is a member of the Banking Federation of the European Community. Since the French Banking Association is a foreign organization, Arnold & Porter is registered with the Department of Justice under the provisions of 22 U.S.C. Section 611 et seq., as an agent of such foreign principal. Copies of this letter are being filed with the Department of Justice, and copies of Arnold & Porter's registration statement are available for public inspection at the Department of Justice. Registration does not indicate approval of this material by the U.S. government.

Edge Act in ways which would expand the ability of domestic banks to facilitate export transactions. Foreign banks, though still quite free to function multistate through agencies on the loan side, would then be limited on the deposit side to the multistate activities open to domestic banks through the enlarged Edge Act.

We believe that Senator Stevenson's proposal should not be supported. It ignores the considerations which caused the House to adopt the present Section 5. A number of Representatives stressed the important role which foreign banks can play in expanding a region's exports and the need to leave open to the respective states the option of attracting foreign banks which can perform such a service. For example, in remarks specifically concurred in by Chairman Reuss and Reps. AuCoin and Pepper, Rep. Annunzio said:

> "One of the best ways to reduce the trade deficit is not only to decrease imports, but to expand the export of U.S.-produced goods and services. I know of no better way to facilitate exporting than to allow foreign banking to expand in this country. If a small manufacturer wanted to export his product where would he turn to learn about overseas markets, international financing, and the other problems that go hand in hand with exporting? A foreign bank could easily perform that function without in any way taking away the business of an American bank which normally does not possess such information."

* * * *

> "The prospects of foreign banks in your State might not be appealing at this time, but with more and more States seeking ways to increase foreign trade it may well be that at some point in the future your State would want to encourage foreign banks to locate there so as to facilitate foreign trade without bringing undue competitive advantage to domestic banks. 124 CONG. REC. H2564 (daily ed., April 6, 1978)

We submit that these views are correct. The element in Senator Stevenson's proposal which deals with liberalizing the activities of Edge Act corporations would, of course, be a move in the right direction. However, as the House recognized, agencies or liberalized Edge Act activities simply would not be a substitute for interstate foreign bank branching. To limit foreign banks' deposit activities to those forms would close off the foreign bank option to many states.

Foreign bank branches perform unique functions. It is these unique functions which have caused states to desire their presence. Only branches, with their deposit-taking capacity, full staffs and information capabilities can perform the many functions which local businesses require.

Nor does foreign bank branching represent a competitive imbalance. Domestic banks have considerable advantages over foreign banks. Unlike large American banks, the names of which are household words, foreign banks could rarely establish a foothold and attract small and medium sized businesses unless they can establish a public image as banks. In addition, foreign bank branches provide a needed dimension of competition in the banking sector. As Dr. Jahn pointed out at the Hearing (Transcript pp. 144-45), the simple fact is that the financial strength and growth prospects of agencies and other entities which are less than branches have not proven sufficient to permit them to compete effectively. The agency or Edge Act deposit privileges would simply not be enough to attract foreign banks to enter a state market.

The international financial situation is dynamic. Coping with it requires the flexibility and full array of services which branches can perform. Although there may be several forms appropriate for foreign bank activity, states -- including Illinois -- have shown a desire for branches, and we think that this option should not be denied to them.

In sum, it would be unwise to foreclose useful options which many states may wish to adopt by limiting interstate branching by foreign banks in the International Banking Act, as Senator Stevenson has proposed.

Sincerely,

W. Rogers

William D. Rogers

cc: Senator Adlai E. Stevenson

Dr. JAHN. Mr. Chairman, please understand that we do not object to a law or regulation for which there are valid reasons of policy. We have been and shall continue to be proud of being good and law-abiding residents of your great country.

Thank you very much.

Senator McINTYRE. Thank you very much, Dr. Jahn.

I will ask the question, and we will have the representative of each of the two groups answer it. But if anybody feels that there is something they would like to add or something that they want to distinguish from the previous answer, that will be all right.

This is a question directed to you, Mr. Bellanger. This bill provides for the first time for the establishment of Federal branches and agencies. What interest would there be for a foreign bank to establish a federally chartered office, as opposed to a State chartered office?

Mr. BELLANGER. None.

Senator McINTYRE. No interest? [Laughter.]

Dr. Jahn?

Dr. JAHN. As long as the States' authorities are such that where we are desired and well accepted and invited, we can't see any reason for having a different system established again.

Senator McINTYRE. Any other comments?

Dr. JAHN. No.

Senator McINTYRE. This morning, the testimony of Chairman Miller, of the Federal Reserve, emphasized that, as the dual banking system has evolved in this country, Dr. Jahn, there is some degree of Federal supervision of virtually every bank in the United States.

Similarly, Mr. Heimann emphasized—and I quote: "An internally consistent system of oversight is essential."

Obviously the establishment of Federal presence or Federal oversight is one of the principal features of this bill. You gentlemen have studied this legislation since its inception.

What is your best advice to this committee at this time in terms of how this Federal interest should be structured?

Dr. Jahn?

Dr. JAHN. Mr. Chairman, we have been abiding on a voluntary basis for years, now, to supply the Fed with all sorts of reports they should wish, and there is no reason why this should be mandatory. But on a voluntary basis, it has worked without any discussion, without any difficulty.

I think the banking supervisor from New York State repeated that either directly, or through the State banking superintendent, the provision of full information, whatever the Fed might need for conducting its policy, probably would be all right for foreign banks.

Mr. PITTMAN. May I add, Mr. Chairman, that the key to oversight is adequate access to information. We believe that under existing Federal law, supplemented by State law, the Federal Reserve Board has all of the information it has ever requested, and all it has to do is ask if it needs any more.

Senator McINTYRE. Well, Mr. Bellanger, with regard to multi-State operations, how do you view Chairman Miller's proposal to limit section 5 to branches, permitting agencies of foreign banks to continue to do business on a multi-State basis unhampered, unfettered by this legislation?

Mr. BELLANGER. Well, Mr. Chairman, my opinion is in opposition to the Fed's that the branch has a competitive advantage in interstate branching. In my opinion, those branches are by the nature of their markets close to what the large American banks are doing interstate, not merely the Edge Act corporations.

We seem to forget sometimes we go to the money market centers, our customers are basically internationally oriented. So we are going in this country only to several States. In other words, the branching system of foreign banks is not a nationwide phenomenon. Right now it has been limited to gateway cities, by which I mean New York and California. California has been excluded because it is impossible to open a branch there.

Senator MCINTYRE. Mr. Leslie, or Mr. Jahn?

Dr. JAHN. May I add one little comment?

First, of course, we have to abide by what the States suggest, what the States wish. If they prefer branches, the bank would have a branch.

From our own point of view, an agency of a foreign bank, although not necessarily useless, is infinitely weaker than an agency of an American bank because the American name is known. We are much less known in the American marketplace, and we are followers in operations and can't hope to take in as many deposits. The amount of confidence in the strength of our capital structure at home gives us a chance, at least an opportunity, through branches to get some local deposit base which helps us in financing our business.

Of course, we will remain infinitely weaker than comparable domestic banks for the simple reason that we are foreigners. Therefore, wherever desirable, wherever looked for by that particular State, I think basically the branch is more desirable than an agency.

Senator MCINTYRE. Do you agree, Mr. Leslie.

Mr. LESLIE. Yes, indeed, I do, so.

Senator MCINTYRE. With regard to the question of interstate branches, do you feel there may be some logic to restricting retail deposit taking, while leaving unaffected deposit taking which is fundamentally international or trade related? Mr. Leslie? Mr. Fabre? Mr. Jahn?

Mr. LESLIE. I think the comment has been made that the two are not very easily separated. In fact, one is dealing with an operation that has a banking relationship that has, in fact, very often both aspects.

For this reason, we think the separation of them, while not impossible, is, in practice, not relating, really, to the realities of the situation.

Senator MCINTYRE. Mr. Bellanger, why do you argue that deposits of foreign branches aren't really retail deposits and, therefore, do not really need FDIC insurance protection? Is it not true that the general public can, if it chooses, walk in and place deposits with foreign branches and, therefore, might we not consider FDIC insurance mandatory for foreign branches which take retail deposits, and not mandatory if it does not?

Mr. BELLANGER. Mr. Chairman, that distinction might usefully be made. This morning, the question was raised and not answered about defining retail banking activities. Ms. Seibert testified this morning and she said that she doesn't care about General Motors but she cares about the deposits from the little man in the street.

So, what we say, in fact, is that the activities of foreign branches are not of such a nature. We do not seek consumer-oriented deposits. For this reason, we do not feel that we should have mandatory FDIC membership.

We recently surveyed all branch members of the institute. There was a 75-percent response. We analyzed the consumer-oriented deposit for these New York branches, and we found that most of these branches had consumer-oriented deposits of under 1 percent. For a few branches, it was higher but no more than 5 percent.

So, I am emphasizing the big difference between foreign bank branches and someone deliberately going into the street to attract consumer-oriented deposits. Ms. Seibert, this morning, was right about one branch in New York, but not about the rest. I think we should make a difference between that and taking deposits of a Frenchman coming to New York and opening an account with a French branch.

I think the retail-wholesale deposit ratios are very low, and that is the reason why the FDIC membership should be voluntary.

The second thing, which was not mentioned this morning, under the State of New York law, foreign banks are required to deposit assets with the New York State Banking Department of 5 percent of their liabilities. And when we look at the definition of these regulations, you can read and understand those pledged assets are effectively used as an insurance pool to protect depositors and other creditors.

And so, since we already are covered at the State level, we do not feel that we should be required to have the FDIC membership at the Federal level.

I think that the compromise might be to try—I might suggest this idea—might be, first, to try to define what we mean by retail deposit activities and to establish an acceptable ratio of retail versus the total deposits of the branch. If there is no systematic, deliberate policy for a bank to establish a retail deposit business, exempt it. No. 2, suggest the New York Banking Department issue a special license for full retail banking operations.

Now, the few branches in New York which Ms. Seibert was referring to this morning, should not object to have FDIC membership for their banking business and be in the retail banking area.

Senator McIntyre. Do you have a comment, Mr. Jahn, or Mr. Fabre?

Dr. Jahn. Apart from the question of cost raised this morning, also, by Mr. LeMaistre, apart from that additional load that would be coming about by pledging the assets or by taking out surety bonds from the insurance company, most of the branches don't look at all for Mr. Smith's deposit and instead look for a large deposit.

And in addition, some of the countries have very elaborate insurance systems at home, including their foreign deposits. It doesn't apply to all, but it does apply to some. So—but I still would suggest that it should be made optional for those branches in the long range who may wish to look for small deposits, and there should be a possibility of becoming a member and taking out insurance from the FDIC.

At this stage, mandatory insuranec for the branch offices is costly and doesn't make very much sense.

Senator McIntyre. Going again, now to the Federal Reserve Board, it argues for reserve requirements on subsidiaries as well as branches, agencies, and commercial lending companies.

On the other hand, Ms. Seibert, of the New York State Bank Commission, testified this morning that the Fed, the Federal Reserve, should have no authority to impose reserves on agencies and commercial lending companies, since these entities are barred from accepting deposits and, therefore, do not function as banks.

What are your thoughts on this issue? Anyone.

Mr. BELLANGER. Mr. Chairman, we agree with Ms. Seibert. As far as the subsidiaries are concerned under section 7, subsidiaries are very different. They are more separate from their parents than are branches from their home offices, from both a legal and practical standpoint.

They must be independently capitalized, and they have no legal recourse for parental support. And they do not have the relatively active advances from foreign affiliates as do branches, which the Federal Reserve board has identified as the type of transaction giving rise to its most specific monetary policy concerns. These net balances for the bank subsidiaries are only $163 million as of April 1978.

Senator MCINTYRE. Any further comments, gentlemen?

Well, gentleman, as to the May 19, 1977 grandfathering date, how much new investment in nonbanking activities by foreign banks has there been between May 1977 and now?

Dr. JAHN. I wouldn't know.

Senator MCINTYRE. Can you submit it for the record? Can you obtain such information and furnish it for the record?

Dr. JAHN. We can find out.

Senator MCINTYRE. Do you have any idea?

Dr. JAHN. There would be no rush, sir; if the date is put to the enactment of the bill. There would be no rush, as suggested this morning several times. There would be no rush. It is very few, anyway, and very few are likely to use that possibility.

[The following letter was received for the record:]

LEVA, HAWES, SYMINGTON, MARTIN & OPPENHEIMER,
Washington, D.C., June 30, 1978.

Hon. THOMAS J. MCINTYRE,
Subcommittee on Financial Institutions, Senate Committee on Banking, Housing and Urban Affairs, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR MCINTYRE: At the hearing on the proposed "International Banking Act of 1978" held on June 21, 1978, you asked whether information could be obtained on how much new investment in nonbanking activities in the United States has been made by foreign banks since May, 1977, the grandfathering date included in Section 8 of the bill as passed by the House of Representatives (Transcript, p. 141).

The Banking Federation of the European Community regrets that it has not been possible to obtain this information which, as far as we are aware, has not been previously compiled by any governmental agency or private entity. Such information can only be obtained by surveying all foreign banks operating in the United States. Such a survey, however, would be complex and difficult because foreign banks can be affiliated with foreign corporations making investments in the United States, yet not be aware of such investments when they are made. For this reason, it is not possible quickly to poll foreign banks about all of the U.S. investments that might be affected by Section 8.

There have undoubtedly been such investments made in the ordinary course of business since May, 1977, which is the source of our concern about the grandfathering date. We are not aware, however, of any evidence that would indicate there has been a rush to invest in the United States prior to the imposition of any restrictions.

Respectfully submitted.

FRANZ M. OPPENHEIMER,
Counsel to the Commerzbank.

Mr. PITTMAN. May I add that those European banks that are engaged in investment banking routinely put themselves in the position of changing ownership in equity securities, and they, of course, run these businesses without an eye on the United States—on the potential restrictions in the United States. Investment decisions are unaffected by this bill. Because these changes take place on a routine basis, it would be difficult to ascertain by a survey precisely what investments have been made on what date.

Senator McIntyre. You gentlemen want the grandfathering date to be the date of enactment. Would you accept a fixed date, such as July 1, rather than the date of enactment? You are recommending that the law go into effect, the grandfathering go into effect on the date of enactment of this bill. I suspect you mean the date that the President signs it. Would you accept as an alternative a more recent fixed date, such as July 1?

Mr. Pittman. Could I respond to that?

The date I presume that you are considering is the date as of which foreign banks are effectively on notice that section 8 is likely to be enacted.

As of this moment, we are all up in the air as to whether or not a bill will be reported out. This uncertainty has not changed over the 3½ years since this process began.

It seems to me that the first time at which we are on notice that the law may change would be the point at which you report out a bill.

If you do decide to report out a bill, that date is somewhere ahead of us, not very far, if you decide to report out the bill this year. So, I would recommend that the report date might be used for section 8 grandfather purposes.

Senator McIntyre. In this morning's session, Senator Stevenson suggested a compromise on interstate branching proposals, and he would appreciate getting any views of the witnesses this afternoon, if you could gather and produce and put into writing as part of the record along the line of this proposal.

Now, to remind you what the proposal was: It, in general terms, would go about as follows: Continue to permit foreign banks to enter in a State where they are welcome, but limit the deposit-taking activities of branches outside of the home State to those permissible for an Edge Act bank; agencies as down in Georgia would be totally unaffected. And branches could make domestic and international loans and conduct other activities except they would be limited to accepting deposits from foreign sources and for international trade purposes.

That is the sense of the Senator from Illinois's suggestion.

I would like, if it is possible—we are going to close the record on this in 7 days—but, if anybody has any comments now, I would be delighted to have them, and then if any of you can suggest a critique or approval or amendments thereto, we would like to have it, if possible.

Do I make myself clear?

Dr. Jahn. Orally, at this moment, I would ask this—may we submit a paper, a bit more carefully considered view on this particular suggestion?

Offhand, I would say agencies, or Edge Act banks, if they are somewhat expanded in their scope and could take deposits from somewhere outside and tied to international operations, might be of interest to some banks, obviously.

But it is not the same as to have a branch, as I said before, to at least build up a small base for local deposits.

Secondly, an Edge Act bank requires a capitalization of some size, and the weakness of any foreign Edge Act bank remains a fact. It is less known and thus it does not have the full weight or the strength or international standing as a capital structure of the parent bank. That is very different from a large American bank, which may have an Edge Act bank under the same name in some State other than its own.

The weakness is very substantial compared with the domestic organizations.

Senator McINTYRE. I might add—I should have read this—this proposal, according to the way Mr. Stevenson is thinking, would be complemented by liberalizing amendments to the Edge Act intended to further facilitate the development of international banking facilities throughout the country.

These amendments would be intended to encourage more domestic banks to form Edge Act corporations and engage in international finance activities.

Mr. Pittman?

Mr. PITTMAN. We would have no objection to the last part of the proposal, but on the first part we heard Mr. Dunn, the bank supervisor from Georgia, say that it was important to a State like Georgia which has started with an agency law, to reserve the option to go a step further and admit branches, presumably following the Chicago model of permitting branches to come in with a single location which keeps them out of the retail business.

I think this question ought to be viewed from the standpoint of the cities that are trying to develop international financial center status.

Do they need to offer foreign banks deposit-taking powers or don't they? I think the record is clear that Chicago has succeeded in attracting 29 foreign bank branches. Georgia and other agency States have not succeeded in attracting substantial assets of foreign banks at this time.

If you are attempting to give the cities the opportunity to attract foreign banks, this proposal would defeat the purpose.

Mr. FABRE. You asked this morning what the situation is concerning branching in Europe. Would you like me to answer this question for the countries we represent?

The present situation is such that in the nine countries of the Common Market all foreign banks enjoy full deposit-taking powers and, with some exception for Italy, full freedom for branching all over the country in which they operate.

Freedom for branching all over the Community, which is already a fact, has been recognized as a right for European banks by a recent decision of the Community, and this decision also provided the possibility for foreign banks to be granted the same rights on a reciprocal basis.

Thank you, Mr. Chairman.

Senator McINTYRE. That is the situation generally throughout Europe. But, what is the situation in Japan?

Mr. SHIMIZU. All of the branches of the foreign banks can take deposits without limitation—no geographic limitation.

Senator McINTYRE. Gentlemen, this morning when I came in to open the subcommittee hearing, I simply put my opening statement in the record, but I think in concluding our session here I should read to you a paragraph that I think will help you to better understand my thinking.

As we see it, even though our situation in the Senate has never been worse as far as legislation is concerned, we still have our little housekeeping measures before us, and we are still in a filibuster that has been almost constant since we came back here in January.

But let me read this to you. In light of the extensive legislative history on this legislation, our purpose today was to simply highlight the main points of controversy with an overview toward formulating a reasonable and responsible approach to the resolution in this Congress.

For my part, I am of the opinion that the climate is now right for enactment of this legislation. In previous years I have had some reservations about the necessity for the various proposals before us. At this time I now feel that the continuing growth of foreign banking activity in this country has generated sufficient interest to establish better Federal monitoring of foreign banking activities in this country.

Moreover, I believe the political climate is still relatively calm, which hopefully will enable us to fashion a rational bill.

Further delay may very well result in more restrictive pieces of legislation, which in my opinion would serve nobody's interest.

If there is anything else to be said?

[No response.]

We will conclude this hearing.

[Whereupon at 3:20 p.m. the hearing was adjourned.]

[Additional material received for the record follows in the appendix.]

APPENDIX

95TH CONGRESS
2D SESSION

H. R. 10899

IN THE SENATE OF THE UNITED STATES

APRIL 7 (legislative day, FEBRUARY 6), 1978

Read twice and referred to the Committee on Banking, Housing, and Urban Affairs

AN ACT

To provide for Federal regulation of participation by foreign banks in domestic financial markets.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; DEFINITIONS AND RULES OF CONSTRUCTION

SECTION 1. (a) This Act may be cited as the "International Banking Act of 1978".

(b) For the purposes of this Act—

(1) "agency" means any office or any place of business of a foreign bank located in any State of the United States at which credit balances are maintained incidental to or arising out of the exercise of banking powers, checks are paid, or money is lent but at which deposits may not

be accepted from citizens or residents of the United States;

(2) "Board" means the Board of Governors of the Federal Reserve System;

(3) "branch" means any office or any place of business of a foreign bank located in any State of the United States at which deposits are received;

(4) "Comptroller" means the Comptroller of the Currency;

(5) "Federal agency" means an agency of a foreign bank established and operating under section 4 of this Act;

(6) "Federal branch" means a branch of a foreign bank established and operating under section 4 of this Act;

(7) "foreign bank" means any company organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, that has the power to engage in the business of banking, or any subsidiary or affiliate, organized under such laws, of any such company. For the purposes of this Act, the term "foreign bank" includes, without limitation, foreign commercial banks, foreign merchant banks and other foreign institutions

that engage in banking activities usual in connection with the business of banking in the countries where such foreign institutions are organized or operating;

(8) "foreign country" means any country other than the United States, and includes any colony, dependency, or possession of any such country;

(9) "commercial lending company" means any institution, other than a bank or an organization operating under section 25 of the Federal Reserve Act, organized under the laws of any State of the United States, or the District of Columbia which maintains credit balances incidental to or arising out of the exercise of banking powers and engages in the business of making commercial loans;

(10) "State" means any State of the United States or the District of Columbia;

(11) the terms "bank", "bank holding company", "company", "control", and "subsidiary" as used in this Act shall have the same meanings assigned to those terms in the Bank Holding Company Act of 1956, and the terms "controlled" and "controlling" as used in this Act shall be construed consistently with the term "control" as defined in section 2 of the Bank Holding Company Act of 1956; and

(12) "consolidated" means consolidated in accordance with generally accepted accounting principles in the United States consistently applied.

DIRECTORS OF NATIONAL BANKS

SEC. 2. Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended by striking out the period at the end of the first sentence and adding the following new provision: ", except that in the case of an association which is a subsidiary or affiliate of a foreign bank, the Comptroller of the Currency may in his discretion waive the requirement of citizenship in the case of not more than a minority of the total number of directors.".

EDGE CORPORATIONS

SEC. 3. (a) The second sentence of the fourth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 614) is amended by striking out ", all of whom shall be citizens of the United States" after "to elect or appoint directors".

(b) The thirteenth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 619) is deleted and the following paragraph is inserted in lieu thereof:

"Except as otherwise provided in this section, a majority of the shares of the capital stock of any such corporation shall at all times be held and owned by citizens of the United States, by corporations the controlling interest in which is owned by citizens of the United States, chartered under the laws of the United States or of a State of the United States, or by firms or companies, the controlling interest in which is owned by citizens of the United States. Notwithstanding any other provisions of this section, any foreign bank or any bank organized under the laws of the United States, any State of the United States, or the District of Columbia, the controlling interest in which is owned by a foreign bank, group of foreign banks, or institution organized under the laws of a foreign country which owns or controls a foreign bank may, with the prior approval of the Board of Governors of the Federal Reserve System and upon such terms and conditions and subject to such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe, own and hold 50 per centum or more of the shares of the capital stock of any corporation organized under this section, and any such corporation shall be subject to the same provisions of law as any other corporation organized under this section 2 of the Bank Holding Company Act of 1956, and paragraph the terms 'controls' and 'controlling interest' shall be construed consistently with the definition of 'control' in section. For the purposes of the preceding sentence of this the term 'foreign bank' shall have the meaning assigned to it in the International Banking Act of 1978.".

FEDERAL BRANCHES AND AGENCIES

SEC. 4. (a) Except as provided in section 5, a foreign bank which engages directly in a banking business outside the United States may, with the approval of the Comptroller, establish a Federal branch or agency in any State in which (1) it is not operating a branch or agency pursuant to State law and (2) the establishment of a branch or agency, as the case may be, by a foreign bank is not prohibited by State law.

(b) In establishing and operating a Federal branch or agency, a foreign bank shall be subject to such rules, regulations, and orders as the Comptroller considers appropriate to carry out this section, which shall include provisions for service of process and maintenance of branch and agency accounts separate from those of the parent bank. Except as otherwise specifically provided in this Act or in rules, regulations, or orders adopted by the Comptroller under this section, operations of a foreign bank at a Federal branch or agency shall be conducted with the same rights and privileges as a national bank at the same location and shall be subject to all the same duties, restrictions, penalties, liabilities, conditions, and limitations that would apply under the National Bank Act to a national bank doing business at the same location, except that (1) the requirements of section 5240 of the Revised Statutes (12 U.S.C. 481) shall be met with respect to a Federal branch or agency if it is examined at least once in each calendar year; (2) any limitation or restriction based on the capital stock and surplus of a national bank shall be deemed to refer, as applied to a Federal branch or agency, to the dollar equivalent of the capital stock and surplus of the parent bank, and if the parent bank has more than one Federal branch or agency the accounts of all such branches and agencies shall be aggregated in determining compliance with the limitation; (3) a Federal branch or agency shall not be required to become a member bank, as that term is defined in section 1 of the Federal Reserve Act; and (4) a Federal agency shall not be required to become an insured bank as that term is defined in section 3 (h) of the Federal Deposit Insurance Act.

(c) In acting on any application to establish a Federal branch or agency, the Comptroller shall take into account the effects of the proposal on competition in the domestic and foreign commerce of the United States, the financial and managerial resources and future prospects of the applicant foreign bank and the branch or agency, and the convenience and needs of the community to be served.

(d) Notwithstanding any other provision of this section, a foreign bank shall not receive deposits or exercise fiduciary powers at any Federal agency. A foreign bank may, however, maintain at a Federal agency for the account of others credit balances incidental to, or arising out of, the exercise of its lawful powers.

(e) No foreign bank may maintain both a Federal branch and a Federal agency in the same State.

(f) Any branch or agency operated by a foreign bank in a State pursuant to State law and any commercial lending company controlled by a foreign bank may be converted into a Federal branch or agency with the approval of the Comptroller. In the event of any conversion pursuant to this subsection, all of the liabilities of such foreign bank previously payable at the State branch or agency, or all of the liabilities of the commercial lending company, shall thereafter be payable by such foreign bank at the branch or agency established under this subsection.

(g) (1) Upon the opening of a Federal branch or agency in any State and thereafter, a foreign bank, in addition to any deposit requirements imposed under section 6(a) of this Act, shall keep on deposit, in accordance with such rules and regulations as the Comptroller may prescribe, with a member bank designated by such foreign bank, dollar deposits or investment securities of the type that may be held by national banks for their own accounts pursuant to paragraph "Seventh" of section 5136 of the Revised Statutes, as amended, in an amount as hereinafter set forth. Such depository bank shall be located in the State where such branch or agency is located and shall be approved by the Comptroller if it is a national bank and by the Board of Governors of the Federal Reserve System if it is a State bank.

(2) The aggregate amount of deposited investment securities (calculated on the basis of principal amount or market value, whichever is lower) and dollar deposits for each branch or agency established and operating under this section shall be not less than the greater of (1) that amount of capital (but not surplus) which would be required of a national bank being organized at this location, or (2) 5 per centum of the total liabilities of such branch or agency, including acceptances, but excluding (A) accrued expenses, and (B) amounts due and other liabilities to offices, branches, agencies, and subsidiaries of such foreign bank. The Comptroller may require that the assets deposited pursuant to this subsection shall be maintained in such amounts as he may from time to time deem necessary or desirable, for the maintenance of a sound financial condition, the protection of depositors, and the public interest, but such additional amount shall in no event be greater than would be required to conform to generally accepted banking practices as manifested by banks in the area in which the branch or agency is located.

(3) The deposit shall be maintained with any such member bank pursuant to a deposit agreement in such form and containing such limitations and conditions as the Comptroller may prescribe. So long as it continues business in the ordinary course such foreign bank shall, however, be permitted to collect income on the securities and funds so deposited and from time to time examine and exchange such securities.

(4) Subject to such conditions and requirements as may be prescribed by the Comptroller, each foreign bank shall hold in each State in which it has a Federal branch or agency, assets of such types and in such amount as the Comptroller may prescribe by general or specific regulation or ruling as necessary or desirable for the maintenance of a sound financial condition, the protection of depositors, creditors and the public interest. In determining compliance with any such prescribed asset requirements, the Comptroller shall give credit to (A) assets required to be maintained pursuant to paragraphs (1) and (2) of this subsection, (B) reserves required to be maintained pursuant to section 7 (a) of this Act, and (C) assets pledged, and surety bonds payable, to the Federal Deposit Insurance Corporation to secure the payment of domestic deposits. The Comptroller may prescribe different asset requirements for branches or agencies in different States, in order to ensure competitive equality

of Federal branches and agencies with State branches and agencies and domestic banks in those States.

(h) A foreign bank with a Federal branch or agency operating in any State may (1) with the prior approval of the Comptroller establish and operate additional branches or agencies in the State in which such branch or agency is located on the same terms and conditions and subject to the same limitations and restrictions as are applicable to the establishment of branches by a national bank if the principal office of such national bank were located at the same place as the initial branch or agency in such State of such foreign bank and (2) change the designation of its initial branch or agency to any other branch or agency subject to the same limitations and restrictions as are applicable to a change in the designation of the principal office of a national bank if such principal office were located at the same place as such initial branch or agency.

(i) Authority to operate a Federal branch or agency shall terminate when the parent foreign bank voluntarily relinquishes it or when such parent foreign bank is dissolved or its authority or existence is otherwise terminated or canceled in the country of its organization. If (1) at any time the Comptroller is of the opinion or has reasonable cause to believe that such foreign bank has violated or failed to comply with any of the provisions of this section or any of the rules, regulations, or orders of the Comptroller made pursuant to this section, or (2) a conservator is appointed for such foreign bank or a similar proceeding is initiated in the foreign bank's country of organization, the Comptroller shall have the power, after opportunity for hearing, to revoke the foreign bank's authority to operate a Federal branch or agency. The Comptroller may, in his discretion, deny such opportunity for hearing if he determines such denial to be in the public interest. The Comptroller may restore any such authority upon due proof of compliance with the provisions of this section and the rules, regulations, or orders of the Comptroller made pursuant to this section.

(j) (1) Whenever the Comptroller revokes a foreign bank's authority to operate a Federal branch or agency or whenever any creditor of any such foreign bank shall have obtained a judgment against it arising out of a transaction with a Federal branch or agency in any court of record of the United States or any State of the United States and made application, accompanied by a certificate from the clerk of the court stating that such judgment has been rendered and has remained unpaid for the space of thirty days, or whenever the Comptroller shall become satisfied that such foreign bank is insolvent, he may, after due consideration of its affairs, in any such case, appoint a receiver who shall take possession of all the property and assets of such foreign bank in the United States and exercise the same rights, privileges, powers, and authority with respect thereto as are now exercised by receivers of national banks appointed by the Comptroller.

(2) In any receivership proceeding ordered pursuant to this subsection (j), whenever there has been paid to each and every depositor and creditor of such foreign bank whose claim or claims shall have been proved or allowed, the full amount of such claims arising out of transactions had by them with any branch or agency of such foreign bank located in any State of the United States, except (1) claims that would not represent an enforceable legal obligation against such branch or agency if such branch or agency were a separate legal entity, and (2) amounts due and other liabilities to other offices or branches or agencies of, and wholly owned (except for a nominal number of directors' shares) subsidiaries of, such foreign bank, and all expenses of the receivership, the Comptroller or the Federal Deposit Insurance Corporation, where that Corporation has been appointed receiver of the foreign bank, shall turn over the remainder, if any, of the assets and proceeds of such foreign bank to the head office of such foreign bank, or to the duly appointed domiciliary liquidator or receiver of such foreign bank.

INTERSTATE BANKING OPERATIONS

SEC. 5. (a) No foreign bank may operate a branch, agency, commercial lending company subsidiary, or subsidiary bank outside its home State unless (1) in the case of a State branch, agency or commerical lending company, it is approved by the regulatory authority of the State in which such State branch, agency, or commercial lending company is to be operated, (2) in the case of a Federal branch or agency, its operation is expressly permitted by the State in which it is to be operated, and (3) in the case of a bank, its acquisition would be permissible under section 3 of the Bank Holding Company Act of 1956 if the foreign bank were a bank holding company the operations of whose banking subsidiaries were principally conducted in the foreign bank's home State.

(b) For the purposes of this section, the home State of a foreign bank—

(1) which has no branch or subsidiary bank in the United States, but which has an agency or commercial lending company in one or more States, is whichever of such States is determined by election of the bank, or, in default of such election, by the Board of Governors of the Federal Reserve System.

(2) which has a branch or subsidiary bank in one State only, is that State.

(3) which has a branch or subsidiary bank in more than one State, is whichever of such State is determined by election of the bank, or, in default of such election, by the Board of Governors of the Federal Reserve System.

An initial election under this subsection shall be made by means of a written declaration filed with the Board of Governors of the Federal Reserve System not more than one year after the date of enactment of this Act by the foreign bank concerned. After the home State of a foreign bank has been determined pursuant to this subsection, it may be changed only by the Board of Governors of the Federal Reserve System, either upon the application of the bank, or upon its own motion, for cause shown. Any foreign bank that does not maintain a branch, agency, or commercial lending company subsidiary, or that is not a bank holding company or a subsidiary thereof on the date of enactment of this Act, shall have its home State deemed to be the State in which it establishes its initial branch, agency, commercial lending company subsidiary, or bank subsidiary (including any commercial lending company subsidiary or bank subsidiary acquired by a company of which it is a subsidiary) in the United States.

INSURANCE OF DEPOSITS

SEC. 6. (a) No foreign bank may establish or operate a Federal branch unless the branch is an insured branch as defined in section 3 (s) of the Federal Deposit Insurance Act.

(b) After the date of enactment of this Act no foreign bank may establish a branch, and after one year following such date no foreign bank may operate a branch, in any State in which the deposits of a bank organized and existing under the laws of that State would be required to be insured, unless the branch is an insured branch as defined in section 3 (s) of the Federal Deposit Insurance Act.

(c) (1) The Federal Deposit Insurance Act (12 U.S.C. 1811–1832) is amended as set forth hereinafter in this subsection, in which section numbers not otherwise identified refer to sections of that Act.

(2) Section 3 (h) is amended by inserting "(including a foreign bank having an insured branch)" immediately after "(h) The term 'insured bank' means any bank".

(3) Section 3 (j) is amended by inserting "or of a branch of a foreign bank" immediately before the period at the end thereof.

(4) Section 3 (m) is amended (A) by changing "(m)

The" to read "(m) (1) Subject to the provisions of paragraph (2) of this subsection, the", and (B) by adding at the end thereof the following new paragraph:

"(2) In the case of any deposit in a branch of a foreign bank, the term 'insured deposit' means an insured deposit as defined in paragraph (1) of this subsection which—

"(A) is payable in the United States to—

"(i) an individual who is a citizen or resident of the United States,

"(ii) a partnership, corporation, trust, or other legally cognizable entity created under the laws of the United States or any State and having its principal place of business within the United States or any State, or

"(iii) an individual, partnership, corporation, trust, or other legally cognizable entity which is determined by the Board in accordance with its regulations to have such business or financial relationships in the United States as to make the insurance of such deposit consistent with the purposes of this Act;

and

"(B) meets any other criteria prescribed by the Board of Directors by regulation as necessary or appropriate in its judgment to carry out the purposes of this Act or to facilitate the administration thereof.".

(5) Section 3 (q) is amended to read as follows:

"(q) The term 'appropriate Federal banking agency' shall mean—

"(1) the Comptroller of the Currency in the case of a national banking association, a District bank, or a Federal branch of a foreign bank;

"(2) the Board of Governors of the Federal Reserve System—

"(A) in the case of a State member insured bank (except a District bank), and

"(B) in the case of any provision of the Federal Reserve Act which is made applicable under the International Banking Act of 1978 to any branch or agency of a foreign bank, and

"(3) the Federal Deposit Insurance Corporation in the case of a State nonmember insured bank (except a District bank) or a foreign bank having an insured branch.

Under the rule set forth in this subsection, more than one agency may be an appropriate Federal banking agency with respect to any given institution.".

(6) Section 3 is amended by adding at the end thereof the following new subsections:

"(r) The terms 'foreign bank' and 'Federal branch' shall be construed consistently with the usage of such terms in the International Banking Act of 1978.

"(s) The term 'insured branch' means a branch of a foreign bank any deposits in which are insured in accordance with the provisions of this Act.".

(7) Section 5 is amended (A) by changing "SEC. 5." to read "SEC. 5. (a)" and (B) by adding at the end thereof the following new subsections:

"(b) Subject to the provisions of this Act and to such terms and conditions as the Board of Directors may impose, any branch of a foreign bank, upon application by the bank to the Corporation, and examination by the Corporation of the branch, and approval by the Board of Directors, may become an insured branch. Before approving any such application, the Board of Directors shall give consideration to—

"(1) the financial history and condition of the bank,

"(2) the adequacy of its capital structure,

"(3) its future earnings prospects,

"(4) the general character of its management, including but not limited to the management of the branch proposed to be insured,

"(5) the convenience and needs of the community to be served by the branch,

"(6) whether or not its corporate powers, insofar as they will be exercised through the proposed insured branch, are consistent with the purposes of this Act, and

"(7) the probable adequacy and reliability of information supplied and to be supplied by the bank to the Corporation to enable it to carry out its functions under this Act.

"(c) (1) Before any branch of a foreign bank becomes an insured branch, the bank shall deliver to the Corporation or as the Corporation may direct a surety bond, a pledge of assets, or both, in such amounts and of such types as the Corporation may require or approve, for the purpose set forth in paragraph (4) of this subsection.

"(2) After any branch of a foreign bank becomes an insured branch, the bank shall maintain on deposit with the Corporation, or as the Corporation may direct, surety bonds or assets or both, in such amounts and of such types as shall be determined from time to time in accordance with such regulations as the Board of Directors may prescribe. Such regulations may impose differing requirements on the basis of any factors which in the judgment of the Board of Directors are reasonably related to the purpose set forth in paragraph (4).

"(3) The Corporation may require of any given bank larger deposits of bonds and assets than required under paragraph (2) of this subsection if, in the judgment of the Corporation, the situation of that bank or any branch thereof is or becomes such that the deposits of bonds and assets otherwise required under this section would not adequately fulfill the purpose set forth in paragraph (4). The imposition of any such additional requirements may be without notice or opportunity for hearing, but the Corporation shall afford an opportunity to any such bank to apply for a reduction or removal of any such additional requirements so imposed.

"(4) The purpose of the surety bonds and pledges of assets required under this subsection is to provide protection to the deposit insurance fund against the risks entailed in insuring the domestic deposits of a foreign bank whose activities, assets, and personnel are in large part outside the jurisdiction of the United States. In the implementation of its authority under this subsection, however, the Corporation shall endeavor to avoid imposing requirements on such banks which would unnecessarily place them at a competitive disadvantage in relation to domestically incorporated banks.

"(5) In the case of any failure or threatened failure of a foreign bank to comply with any requirement imposed under this subsection (c), the Corporation, in addition to all other administrative and judicial remedies, may apply to any United States district court, or United States court of any territory, within the jurisdiction of which any branch of the bank is located, for an injunction to compel such bank and any officer, employee, or agent thereof, or any other person having custody or control of any of its assets, to deliver to the Corporation such assets as may be necessary to meet such requirement, and to take any other action necessary to vest the Corporation with control of assets so delivered. If the court shall determine that there has been any such failure or threatened failure to comply with any such requirement, it shall be the duty of the court to issue such injunction. The propriety of the requirement may be litigated only as provided in chapter 7 of title 5 of the United States Code, and may not be made an issue in an action for an injunction under this paragraph.".

(8) The first sentence of section 7 (a) (1) is amended by inserting "and each foreign bank having an insured branch which is not a Federal branch" immediately before "shall make to the Corporation".

(9) The first sentence of section 7 (a) (3) is amended (A) by inserting "and each foreign bank having an insured branch (other than a Federal branch)" immediately before "shall make to the Corporation" and (B) by inserting ", each foreign bank having an insured branch which is a Federal branch," immediately before "and each insured district".

(10) Section 7(a) is amended by adding at the end thereof the following new paragraph:

"(7) In respect of any report required or authorized to be supplied or published pursuant to this subsection or any other provision of law, the Board of Directors or the Comptroller of the Currency, as the case may be, may differentiate between domestic banks and foreign banks to such extent as, in their judgment, may be reasonably required to avoid hardship and can be done without substantial compromise of insurance risk or supervisory and regulatory effectiveness.".

(11) Section 7(b) is amended (A) by changing "(4) A bank's assessment base" to read "(4) (A) Except as provided in subparagraph (B) of this paragraph, a bank's assessment base" and (B) by adding at the end thereof the following new subparagraph:

"(B) in determining the assessment base and assessment base additions and deductions of a foreign bank having an insured branch, such adjustments shall be made as the Board of Directors may by regulation prescribe in order to provide equitable treatment for domestic and foreign banks.".

(12) Section 7(j)(1) is amended (A) by changing "(j) (1) Whenever" to read "(j) (1) (A) Except as provided in subparagraph (B) of this paragraph, whenever",

and (B) by adding at the end thereof the following new subparagraph:

"(B) The Board of Directors may by regulation exempt from the reporting requirements of subparagraph (A) of this paragraph any transaction in the stock of a foreign bank to the extent that the making of any such report would be prohibited by the laws of the country of domicile of the foreign bank in effect at the time such bank makes its application under section 5 (b) of this Act, or rendered impracticable by the customs and usages of such country, but the Board of Directors shall weigh the existence of any such prohibition or impracticability in connection with its consideration of the factors enumerated in sections 5 (b) (4) and 5 (b) (7).".

(13) Section 7 (j) (2) is amended by changing "(2) Whenever" to read "(2) (A) Except as provided in subparagraph (B) of this paragraph, whenever" and by adding at the end thereof the following new subparagraphs:

"(B) The requirements of subparagraph (A) of this paragraph shall not apply in the case of a loan secured by the stock of a foreign bank if the lending bank is a foreign bank under the laws of whose domicile the report otherwise required by subparagraph (A) would be prohibited.

"(C) No foreign bank under the laws of whose domicile a report in compliance with subparagraph (A) of this paragraph would be prohibited in the case of a loan to acquire the stock of an insured bank which is not a foreign bank may make, acquire, or retain any such loan. Each report of condition filed under subsection (a) by any foreign bank to which this subparagraph applies shall contain either a statement of the amount of each loan made, retained, or acquired by the foreign bank in violation of this subparagraph during the period from the date it became an insured bank or the date of its last report of condition, whichever is later, to the date of the report of condition, or a statement that no such loans were made and no such loans were outstanding during such period.".

(14) The first sentence of section 8 (a) is amended by inserting ", a foreign bank having an insured branch which is a Federal branch, a foreign bank having an insured branch in any State in which State-chartered banks are required to be insured," immediately after "(except a national member bank".

(15) Section 8 is amended by adding at the end thereof the following new subsection:

"(r) (1) Except as otherwise specifically provided in this section, the provisions of this section shall be applied to foreign banks in accordance with this subsection.

"(2) An act or practice outside the United States on the part of a foreign bank or any officer, director, employee, or agent thereof may not constitute the basis for any action by any officer or agency of the United States under this section, unless—

"(A) such officer or agency alleges a belief that such act or practice has been, is, or is likely to be a cause of or carried on in connection with or in furtherance of an act or practice within any one or more States which, in and of itself, would constitute an appropriate basis for action by a Federal officer or agency under this section; or

"(B) the alleged act or practice is one which, if proven, would, in the judgment of the Board of Directors, adversely affect the insurance risk assumed by the Corporation.

"(3) In any case in which any action or proceeding is brought pursuant to an allegation under paragraph (2) of this subsection for the suspension or removal of any officer, director, or other person associated with a foreign bank, and such person fails to appear promptly as a party to such action or proceeding and to comply with any effective order or judgment therein, any failure by the foreign bank to secure his removal from any office he holds in such bank and from any further participation in its affairs shall, in and of itself, constitute grounds for termination of the insurance of the deposits in any branch of the bank.

"(4) Where the venue of any judicial or administrative proceeding under this section is to be determined by reference to the location of the home office of a bank, the venue of such a proceeding with respect to a foreign bank having one or more branches in not more than one judicial district or other relevant jurisdiction shall be within such jurisdiction. Where such a bank has branches in more than one such jurisdiction, the venue shall be in the jurisdiction within which the branch or branches involved in the proceeding are located, and if there are more than one such jurisdictions, the venue shall be proper in any such jurisdiction in which the proceeding is brought or to which it may appropriately be transferred.

"(5) Any service required or authorized to be made on a foreign bank may be made on any branch located within any State, but if such service is in connection with an action or proceeding involving one or more branches located in any State, service shall be made on at least one branch so involved.".

(16) The first sentence of section 10(b) is amended (A) by inserting "any insured branch of a foreign bank, any branch of a foreign bank making application to become an insured bank," immediately after "(except a District bank)", and (B) by inserting "or branch" before the comma after "any closed insured bank".

(17) The third sentence of section 10(b) is amended

by inserting ", and in the case of a foreign bank, a binding commitment by such bank to permit such examination to the extent determined by the Board of Directors to be necessary to carry out the purposes of this Act shall be required as a condition to the insurance of any deposits" immediately before the period at the end thereof.

(18) Section 11 (c) is amended by inserting ", insured Federal branch of a foreign bank," immediately before "or insured District bank,".

(19) The first sentence of section 11 (e) is amended by inserting "or any insured branch (other than a Federal branch) of a foreign bank" immediately before "shall have been closed".

(20) The second sentence of section 11 (e) is amended by changing "such insured State bank," to read "such insured State bank or insured branch of a foreign bank,".

(21) Section 11 (f) is amended by inserting "or insured branch of a foreign bank" immediately before "shall have been closed".

(22) The first sentence of section 11 (g) is amended by inserting ", insured branch of a foreign bank," immediately before "or District bank,".

(23) The third sentence of section 11 (g) is amended by changing "In the case of any closed insured bank," to

read "In the case of any closed insured bank or closed insured branch of a foreign bank,".

(24) Section 12 (a) is amended by inserting ", branch of a foreign bank," immediately after "a closed national bank".

(25) Section 13 is amended by adding at the end thereof the following new subsection:

"(g) The powers conferred on the Board of Directors and the Corporation by this section to take action to reopen a closed insured bank or to avert the closing of an insured bank may be used with respect to an insured branch of a foreign bank if, in the judgment of the Board of Directors, the public interest in avoiding the closing of such branch substantially outweighs any additional risk of loss to the insurance fund which the exercise of such powers would entail.".

(26) Section 18 (c) is amended by adding at the end thereof the following new paragraph:

"(11) The provisions of this subsection do not apply to any merger transaction involving a foreign bank if no party to the transaction is principally engaged in business in the United States.".

(27) Section 18 (d) is amended by inserting the following new sentence immediately after the first sentence thereof:

"No foreign bank may move any insured branch from one location to another without such consent.".

(28) The first sentence in section 18 (g) is amended by inserting "and in insured branches of foreign banks" immediately after "in insured nonmember banks".

(29) Section 18 (j) is amended by adding at the end thereof the following new sentence: "The provisions of this subsection shall not apply to any foreign bank having an insured branch with respect to dealings between such bank and any affiliate thereof which is principally engaged in business outside the United States, and with respect to any dealings involving such bank to which the provisions of this subsection apply, the Board of Governors of the Federal Reserve System may make such exemptions or exceptions as it determines to be reasonable and appropriate in the light of the different organizational structure or character of business conducted by such bank or any branch, agency, subsidiary, or affiliate thereof.".

(30) Section 21 is amended by adding at the end thereof the following new subsection:

"(i) The provisions of this section shall not apply to any foreign bank except with respect to the transactions and records of any insured branch of such a bank.".

(31) The first sentence of section 25 (a) is amended by

inserting "insured branch of a foreign bank," immediately after "No insured bank,".

AUTHORITY OF FEDERAL RESERVE SYSTEM

SEC. 7. (a) (1) (A) Except as provided in paragraph (2) of this subsection, subsections (a), (b), (c), (d), (f), (g), (i), (j), (k), and the second sentence of subsection (e) of section 19 of the Federal Reserve Act shall apply to every Federal branch and Federal agency of a foreign bank in the same manner and to the same extent as if the Federal branch or Federal agency were a member bank as that term is defined in section 1 of the Federal Reserve Act; but the Board either by general or specific regulation or ruling may waive the minimum and maximum reserve ratios prescribed under section 19 of the Federal Reserve Act and may prescribe any ratio, not more than 22 per centum, for any obligation of any such Federal branch or Federal agency that the Board may deem reasonable and appropriate, taking into consideration the character of business conducted by such institutions and the need to maintain vigorous and fair competition between and among such institutions and member banks. The Board may impose reserve requirements on Federal branches and Federal agencies in such graduated manner as it deems reasonable and appropriate.

(B) After consultation and in cooperation with the

State bank supervisory authorities, the Board may make applicable to any branch or agency, or (except as provided in paragraph (3) of this subsection) any commercial lending company controlled by one or more foreign banks or one or more foreign companies that control a foreign bank, any requirement made applicable to, or which the Board has authority to impose upon, any Federal branch or agency under subparagraph (A) of this paragraph.

(2) A branch or agency shall be subject to this subsection only if (A) its parent foreign bank has total worldwide consolidated bank assets in excess of $1,000,000,000; (B) its parent foreign bank is controlled by a foreign company which owns or controls foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000; or (C) its parent foreign bank is controlled by a group of foreign companies that own or control foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000.

(3) A commercial lending company shall be subject to this subsection only if it is controlled (A) by a foreign bank that has total worldwide consolidated bank assets in excess of $1,000,000,000; (B) by a group of foreign banks that, in the aggregate, have total worldwide consolidated bank assets in excess of $1,000,000,000; (C) by a foreign company that owns or controls a foreign bank or banks that

in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000; or (D) by a group of foreign companies that own or control a foreign bank or banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000.

(b) Section 13 of the Federal Reserve Act is amended by adding at the end thereof the following new paragraph:

"Subject to such restrictions, limitations, and regulations as may be imposed by the Board of Governors of the Federal Reserve System, each Federal Reserve bank may receive deposits from, discount paper endorsed by, and make advances to any branch or agency of a foreign bank, and any commercial lending company in the same manner and to the same extent that it may exercise such powers with respect to a member bank if such branch, agency, or commercial lending company is maintaining reserves with such Reserve bank pursuant to section 7 of the International Banking Act of 1978. In exercising any such powers with respect to any such branch, agency, or commercial lending company, each Federal Reserve bank shall give due regard to account balances being maintained by such branch, agency, or commercial lending company with such Reserve bank and the proportion of any such branch, agency, or commercial lending company's assets being held as reserves under section 7 of the International Banking Act of 1978. For the purposes of this paragraph, the terms 'branch', 'agency', 'foreign bank', and 'commercial lending company' shall have the same meanings assigned to them in section 1 of the International Banking Act of 1978."

(c) (1) The applicable State banking authorities when requested by the Federal Reserve shall submit to the Board a copy of any examination report made by the applicable State bank supervisory authority on each branch or agency of a foreign bank established or operating pursuant to State law and each commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank. The Board is authorized to require submission of additional information regarding the examination reports submitted under this subsection.

(2) Each branch or agency of a foreign bank, other than a Federal branch or agency, and each commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank, shall be subject to paragraph 20 and the provision requiring the reports of condition contained in paragraph 6 of section 9 of the Federal Reserve Act (12 U.S.C. 335 and 324) to the same extent and in the same manner as if the branch, agency, or commercial lending company were a State member bank. In addition to any requirements imposed under section 4 of this Act, each Federal branch and agency shall be subject

to subparagraph (a) of section 11 of the Federal Reserve Act (12 U.S.C. 248(a)) and to paragraph 5 of section 21 of the Federal Reserve Act (12 U.S.C. 483) to the same extent and in the same manner as if it were a member bank.

(d) On or before two years after enactment of this Act, the Board after consultation with the appropriate State bank supervisory authorities shall report to the Committee on Banking, Finance and Urban Affairs of the United States House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the United States Senate its recommendations with respect to the implementation of this Act, including any recommended requirements such as limitations on loans to affiliates or capital adequacy requirements which should be imposed on banks covered by this Act to assure the safety and soundness of such banking operations.

NONBANKING ACTIVITIES

SEC. 8. (a) Except as otherwise provided in this section (1) any foreign bank that maintains a branch or agency in a State, (2) any foreign bank or foreign company controlling a foreign bank that controls a commercial lending company organized under State law, and (3) any company of which any foreign bank or company referred to in (1) and (2) is a subsidiary shall be subject to the provisions of the Bank Holding Company Act of 1956, and to sections

105 and 106 of the Bank Holding Company Act Amendments of 1970 in the same manner and to the same extent that bank holding companies are subject thereto, except that any such foreign bank or company shall not by reason of this subsection be deemed a bank holding company for purposes of section 3 of the Bank Holding Company Act of 1956.

(b) After December 31, 1985, no foreign bank or other company to which subsection (a) applies on the date of enactment of this Act may retain direct or indirect ownership or control of any voting shares of any nonbanking company in the United States that it owned, controlled, or held with power to vote on the date of enactment of this Act or engage in any nonbanking activities in the United States in which it was engaged on such date unless authorized by subsection (c) of this section or by the Board of Governors of the Federal Reserve System under section 4 of the Bank Holding Company Act of 1956.

(c) After December 31, 1985, notwithstanding the prohibitions of subsection (b) of this section, a foreign bank or other company to which subsection (a) applies on the date of enactment of this Act may continue to engage in nonbanking activities in the United States in which directly or through an affiliate it was lawfully engaged on May 23, 1977 (or on a date subsequent to May 23, 1977, in the case of activities carried on as the result of the direct or indirect acquisition, pursuant to a binding written contract entered into on or before May 23, 1977, of another company engaged in such activities at the time of acquisition) and may retain direct or indirect ownership or control of any voting shares of any nonbanking company that it (1) owned, controlled, or held with power to vote on May 23, 1977 (or on a date subsequent to May 23, 1977, if acquired by a written contract entered into on or before such date) and (2) that does not engage in any activities other than those in which such foreign bank, company, or affiliate may engage by virtue of this subsection or section 4 of the Bank Holding Company Act of 1956; except that the Board by order, after opportunity for hearing, may terminate the authority conferred by this subsection (c) on any such foreign bank or company to engage directly or through an affiliate in any activity otherwise permitted by this subsection (c) if it determines, having due regard to the purposes of this Act and the Bank Holding Company Act of 1956, that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices in the United States. Nothing in this subsection (c) shall be construed to authorize any foreign bank or company referred to in this subsection (c), or any affiliate thereof, to engage in activities authorized by this subsection (c) through the acquisition, pursuant to a contract entered into after May 23, 1977, of any interest in or the assets of a going concern engaged in such activities. Any foreign bank or company that is authorized to engage in any activity pursuant to this subsection (c) but, as a result of action of the Board, is required to terminate such activity may retain the ownership of control of shares in any company carrying on such activity for a period of two years from the date on which its authority was so terminated by the Board. As used in this subsection, the term "affiliate" shall mean any company more than 5 per centum of whose voting shares is directly or indirectly owned or controlled or held with power to vote by the specified foreign bank or company.

(d) Nothing in this section shall be construed to define a branch or agency of a foreign bank or a commercial lending company controlled by a foreign bank or foreign company that controls a foreign bank as a "bank" for the purposes of any provisions of the Bank Holding Company Act of 1956, or section 105 of the Bank Holding Company Act Amendments of 1970, except that any such branch, agency or commercial lending company subsidiary shall be deemed a "bank" or "banking subsidiary", as the case may be, for the purposes of applying the prohibitions of section 106 of the Bank Holding Company Act Amendments of 1970 and the exemptions provided in sections 4(c) (1), 4(c) (2), 4(c)(3), and 4(c)(4) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c) (1), (2), (3), and (4)) to any foreign bank or other company to which subsection (a) applies.

(e) Section 2(h) of the Bank Holding Company Act of 1956 is amended (1) by striking out "(h) The" and inserting in lieu thereof "(h)(1) Except as provided by paragraph (2), the", (2) by striking out the proviso, and (3) by inserting at the end thereof the following:

"(2) The prohibitions of section 4 of this Act shall not apply to shares of any company organized under the laws of a foreign country (or to shares of any subsidiary of such company principally engaged in activities incidental to the business of the parent) that is principally engaged in business outside the United States if such shares are held or acquired by a bank holding company organized under the laws of a foreign country that is principally engaged in the banking business outside the United States, except that (1) such a company (A) may engage in the business of underwriting, selling or distributing securities in the United States only to the extent that a bank holding company may do so under this Act and under regulations or orders issued by the Board under this Act, and (B) may engage in the United States in any banking or financial operations or types of activities permitted under section 4(c)(8) or in any order or regulation issued by the Board under such section only with the Board's prior approval under that section, and (2) no domestic office or subsidiary of a bank holding company or subsidiary thereof holding shares of such company may extend credit to a domestic office or subsidiary of such company on terms more favorable than those afforded similar borrowers in the United States.

"(3) For purposes of this subsection, (A) a bank holding company may not in any case be considered to be 'principally engaged in the banking business outside the United States' if its principal banking subsidiary is located in the United States; and (B) 'domestic' means located in the United States or organized under the laws of the United States or any State thereof."

GUIDELINES FOR FOREIGN BANK OPERATIONS

SEC. 9. (a) The Secretary of the Treasury in issuing guidelines under this section, and the Federal regulatory agencies in the administration of this Act, shall seek to achieve a parity of treatment for foreign banks, branches, agencies, and commercial lending companies relative to their domestic counterparts. It is the purpose of this Act to establish a basic statutory framework which, giving due consideration to the structure of our domestic monetary mechanisms and our national interests, will, to the extent practical, allow foreign banking institutions to have the same rights, duties, and privileges and be subject to the same limitations, restrictions, or conditions as our domestic banking institutions, but the Secretary of the Treasury is authorized and directed to take into account the treatment by foreign governments of financial institutions domiciled in the United States which do business in their respective countries. It is the intent of the Congress that this Act shall establish a pattern for equitable treatment which State regulators may adopt in their regulation of foreign banking institutions.

(b) The Secretary of the Treasury shall issue guidelines with respect to the banking operations of foreign banks, companies, and individuals in the United States, in order to assist Federal and State banking agencies in acting on applications by such foreign banks, companies, and individuals to establish branches or agencies of foreign banks in any State or to acquire interests in banks, corporations organized under sections 25 or 25 (a) of the Federal Reserve Act, or commercial lending companies organized under State law.

(c) Whenever the Comptroller of the Currency receives an application to establish a national bank that will be controlled by a foreign company or group of foreign companies, or a Federal branch or agency of a foreign bank, he shall send a copy to the Secretary of State, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, and the bank supervisory authority of the State where the bank, branch, or agency is to be located. He shall wait thirty days for such officials to submit their views before acting on the application.

(d) Whenever a State bank supervisory authority receives an application to establish a branch or agency of a foreign bank or to organize a bank or a commercial lending company that will be controlled by a foreign company or group of foreign companies, he shall transmit a copy of such application to the Secretary of the Treasury, the Secretary of State, and the Board of Governors of the Federal Reserve System, and shall allow a thirty-day period within which their views and recommendations may be submitted.

(e) Whenever the Board of Governors of the Federal Reserve System receives an application from a foreign company or group of foreign companies for approval under section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) or receives an application from a foreign bank under section 25 or 25(a) of the Federal Reserve Act and whenever the responsible Federal banking agency under the Bank Merger Act (12 U.S.C. 1828(c)) receives an application under that Act involving a bank that is controlled by a foreign company or group of foreign companies, it shall transmit a copy of such application to the Secretary of the Treasury and the Secretary of State and allow a thirty-day period within which their views and recommendations may be submitted.

(f) (1) Every branch or agency of a foreign bank and every commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank shall conduct its operations in the United States in full compliance with provisions of any law of the United States or any State thereof which—

(A) prohibit discrimination against any individual or other person on the basis of the race, color, religion, sex, marital status, age, or national origin of (i) such individual or other person or (ii) any officer, director, employee, or creditor of, or any owner of any interest in, such individual or other person; and

(B) apply to national banks or State-chartered banks doing business in the State in which such branch or agency or commercial lending company, as the case may be, is doing business.

(2) Notwithstanding any other provision of law, no application for a branch or agency under this Act shall be approved by the Comptroller and no application referred to in subsection (c), (d), or (e) of this section shall be approved by the Comptroller, the Board of Governors of the Federal Reserve System, or a State bank supervisory authority, as the case may be, unless the entity making the

application has agreed to conduct all of its operations in the United States in full compliance with provisions of any law of the United States or any State thereof which—

(A) prohibit discrimination against individuals or other persons on the basis of the race, color, religion, sex, marital status, age, or national origin of (i) such individual or other person or (ii) any officer, director employee, or creditor of, or any owner of any interest in, such individual or other person; and

(B) apply to national banks or State-chartered banks doing business in the State in which the entity to be established is to do business.

REPRESENTATIVE OFFICES

SEC. 10. (a) Any foreign bank that maintains an office other than a branch or agency in any State shall register with the Secretary of the Treasury in accordance with rules prescribed by him, within one hundred and eighty days after the date of enactment of this Act or the date on which the office is established, whichever is later.

(b) This Act does not authorize the establishment of any such office in any State in contravention of State law.

CEASE-AND-DESIST ORDERS

SEC. 11. Subsection (b) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by adding at the end thereof the following new paragraphs:

"(4) This subsection and subsections (c), (d), (h), (i), (k), (l), (m), and (n) of this section shall apply to any branch, agency, and any commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank, as those terms are defined in the International Banking Act of 1978, in the same manner as they apply to an insured bank, and for that purpose the appropriate Federal banking agency shall be the Comptroller of the Currency with respect to a Federal branch or agency of a foreign bank and the Board of Governors of the Federal Reserve System with respect to a branch, agency, or commercial lending company subsidiary operating pursuant to State law.

"(5) This subsection and subsections (c), (d), (h), (i), (k), (l), (m), and (n) of this section shall apply to any foreign bank or company to which subsection (a) of section 8 of the International Banking Act of 1978 applies and to any subsidiary (other than a bank) of any such foreign bank or company in the same manner as they apply to a bank holding company and any subsidiary thereof (other than a bank) under subparagraph (3) of this subsection. For the purposes of this subparagraph, the term 'subsidiary' shall have the meaning assigned to it in section 2 of the Bank Holding Company Act of 1956.".

AMENDMENT TO THE BANKING ACT OF 1933

SEC. 12. Section 21 of the Banking Act of 1933 (12 U.S.C. 378) is amended by striking clause (B) of paragraph (2) of subsection (a) thereof and inserting in lieu thereof the following: "(B) shall be permitted by the United States, any State, territory, or district to engage in such business and shall be subjected by the laws of the United States, or such State, territory, or district to examination and regulations or,".

REGULATION AND ENFORCEMENT

SEC. 13. (a) The Comptroller and the Board are authorized and empowered to issue such rules, regulations, and orders as each of them may deem necessary in order to perform their respective duties and functions under this Act and to administer and carry out the provisions and purposes of this Act and prevent evasions thereof.

(b) In addition to any powers, remedies, or sanctions otherwise provided by law, compliance with the requirements imposed under this Act or any amendment made by this Act may be enforced under section 8 of the Federal Deposit Insurance Act by any appropriate Federal banking agency as defined in that Act.

(c) In the case of any provision of the Federal Reserve Act to which a foreign bank or branch thereof is subject under this Act, and which is made applicable to nonmember insured banks by the Federal Deposit Insurance Act, whether by cross-reference to the Federal Reserve Act or by a provision in substantially the same terms in the Federal Deposit Insurance Act, the administration, interpretation, and enforcement of such provision, insofar as it relates to any foreign bank or branch thereof as to which the Board is an appropriate Federal banking agency, are vested in the Board, but where the making of any report to the Board or a Federal Reserve bank is required under any such provision the Federal Deposit Insurance Corporation may require that a duplicate of any such report be sent directly to it. This subsection shall not be construed to impair any power of the Federal Deposit Insurance Corporation to make regular or special examinations or to require special reports.

Passed the House of Representatives April 6, 1978.

Attest: EDMUND L. HENSHAW, JR.,

Clerk.

AMERICAN
BANKERS
ASSOCIATION

1120 Connecticut Avenue, N.W.
Washington, D.C.
20036

PRESIDENT
A.A. Milligan
President
Bank of A. Levy
Oxnard, California 93032

June 28, 1978

The Honorable Thomas J. McIntyre
Chairman
Subcommittee on Financial Institutions
Committee on Banking, Housing and
  Urban Affairs
United States Senate
Washington, D.C. 20510

Déar Mr. Chairman:

The American Bankers Association welcomes the opportunity to present our views on H.R. 10899, The International Banking Act of 1978.

Foreign banks operating in the United States are, under present law, primarily governed by the statutes and regulations of the various states.

We believe that a greater degree of federal presence is appropriate for foreign-controlled banking in the United States.

In the past decade, international trade and investment have grown at a spectacular rate. Many United States banks moved abroad to be in a more advantageous position to serve their multi-national customers. Conversely, direct foreign investment in the United States economy has increased at a substantial rate and foreign banks quickly followed their customers' investment to the United States. Based on these developments, it is reasonable that the federal bank regulatory agencies assume a more active role in the supervision and regulation of foreign-controlled banking entities operating in this country.

The banking industry in the United States welcomes the competition arising from the direct participation of foreign-controlled banking entities in our economy. At the same time, we believe foreign and domestic banks should compete on a level playing field and abide by the same rules and regulations. In assessing the impact of legislation on competing domestic financial institutions, the Association applies a broad set of criteria that tests the legislation against the best interests of the American public and the financial community. One of those criteria is embodied in the question -- does the proposal achieve or maintain equal competitive treatment among the various types of competing financial institutions?

We believe H.R. 10899, to a degree, accomplishes this goal. However, the objective of equal treatment of all financial institutions could be more nearly achieved if certain recommendations regarding Sections 5 and 7 were accepted.

Section 5 of H.R. 10899 would permit foreign banks to continue to operate and expand their interstate banking operations while domestic banks continue to be deprived of this privilege. To continue to allow foreign banks to establish branches in several states, albeit under enabling state legislation, is inconsistent with the goal of equal treatment unless domestic banks are accorded the same right.

We recommend that this Act provide for consistent treatment of foreign-controlled and domestically-chartered banking entities (either national or state). To the degree that interstate activity is denied U.S. chartered banking entities, it should not be available to foreign-controlled banking entities. Consistent with this principle, we do not believe the interstate branching restriction should be applicable to agencies of foreign banks, so long as they limit their activities to internationally-related operations, such as those currently permissible for Edge Act Corporations operating in the United States.

Finally, if Section 5 is amended as we have suggested, we believe that a grandfather clause should be enacted to protect those institutions that have established interstate operations.

Section 7(a) would subject all branches, agencies and commercial lending companies controlled by foreign banks with worldwide assets in excess of one billion to the reserve and deposit rate controls of the Federal Reserve Board. The American Bankers Association supports this provision.

In the past, the American Bankers Association has opposed granting this authority to the Federal Reserve Board, on the grounds it was contrary to the principles of the dual banking system. After careful deliberation, we have concluded that these foreign-controlled banking entities operating in the U.S. in the form of branches, agencies, and commercial lending companies are unique and without comparable domestic counterparts. Under the circumstances, we support the extension of reserve setting authority to these facilities. We continue to support the exemption of state-chartered subsidiaries of foreign-controlled banking entities, because they are identical with other state-chartered banking entities which may, if they wish, choose to become members of the Federal Reserve System.

Section 7(c) provides that the Federal Reserve Board may request from state banking authorities copies of their examination reports of offices of foreign banks authorized by the several states. The Board, however, does not possess independent authority to examine the accounts, books and activities of foreign-controlled banking entities operating under this authority in the U.S. We believe that the examination of foreign-controlled banking entities is a matter of national as well as state concern. We believe the cooperation and coordination of the state and federal regulatory agencies is necessary. Further, we urge that the respective regulators take advantage of the newly proposed Federal Examination Council for the purpose of coordinating and sharing in the design and implementation of uniform examination standards and procedures with respect to foreign-controlled banking entities.

Section 7(d) requires that the Federal Reserve Board report to Congress within two years and assess the impact of the implementation of this Act on foreign banking activities in this country.

We believe that this report should be rendered within one year after final rules and regulations have been promulgated.

We hope these comments will assist the Subcommittee in its consideration of H.R. 10899.

Sincerely,

A. A. Milligan
President
American Bankers Association

Arent, Fox, Kintner, Plotkin & Kahn

Federal Bar Building, 1815 H Street, N.W.
Washington, D.C. 20006

Cable: ARFOX
Telex: 892672
Telephone: (202) 857-6000

Writer's Direct Dial Number
202-857-6434

June 21, 1978

The Honorable
Thomas J. McIntyre
Chairman, Subcommittee on Financial
Institutions of the Senate Committee
on Banking, Housing and Urban Affairs
Dirksen House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

This letter is written on behalf of our client, the Union Bank of Bavaria, in connection with the hearings scheduled for June 21, 1978, before the Subcommittee on Financial Institutions considering the International Banking Act. We understand that the number of witnesses at the hearing will be limited and, therefore, would like to submit, by means of this letter, our client's views on a portion of the bill which is of vital interest to the Union Bank of Bavaria. It would be greatly appreciated if this letter could be brought to the attention of the Committee members and included in the record of the hearing.

The Bayerische Vereinsbank, or Union Bank of Bavaria, as it is known in the United States, is a long established major banking institution with branches in New York and Chicago and an agency in Los Angeles.

The Union Bank of Bavaria is active in the commercial banking sector, domestic and international, as well as in the investment business. It is the proscription of the latter activities contemplated in the legislation which causes our client some considerable concern and which we would like to bring to the notice of the Committee in the hope that appropriate changes can be made in the legislation.

Presently, foreign banks may operate simultaneously in commercial banking and investment banking in the United States through legally separate and distinct entities. Section 8 of the proposed International Banking Act would prohibit this capability by providing in Section (b) that non-conforming activities may be carried on until the end of 1985. Subsection (c) grandfathers non-banking activities commenced prior to May 23, 1977, subject to the power of the Federal Reserve Board to terminate those activities pursuant to the Bank Holding Company Act of 1956.

There is an inherent inequity in a situation which permits a foreign bank which is engaged only in investment banking and not commercial banking prior to May 23, 1977 to start commercial banking activity and retain their investment banking activity after December 31, 1985. On the other hand, a foreign bank which is engaged in commercial banking but entered into investment activity after May 23, 1977 may continue the latter activity only until December 31, 1985. This unequal treatment of the grandfathering provision leads to discrimination and is harmful to my client. We fail to see the reason for this discrimination and urge the Committee to bring the grandfathering provision in Section 8(c) in line, dropping the May 23, 1977 date and inserting instead the date of enactment of the legislation.

The aforesaid should in no way be construed as an endorsement of the general principle of Section 8, prohibiting the foreign commercial and investment banking activities. On the contrary, we strongly urge that there be no change from the present situation which has practical and beneficial consequences for the United States. While purporting to legislate competitive equality, the proposed legislation would have the exact opposite effect. It would legislate inequality by prohibiting at least some continental banks from competing in the United States securities market. We are certain that the Committee is aware that the banking structure of many European countries, including Germany, provides for a universal banking system, that is, the banking institutions provide all financial services, including those provided in the United States by investment banks and broker-dealers as well as those provided by commercial banks. These universal banking institutions compete with each other in their respective home markets as well as with the United States commercial banks and United States investment banking houses. In turn, these universal banks compete in the United States against both commercial and investment banking institutions with the significant difference that in the U.S. their commercial and investment banking activities are completely separated, with all securities activities conducted through registered broker-dealers subject to SEC regulation. The securities operations are always carried out by a legally totally independent company.

A conflict of interest between the two entities is a priori impossible because of this legal construction. The capital connection between the two entities through the universal bank is no different than the parent's equity participation in other corporations outside of the United States or the parent bank's participation in the business sector in the country of origin of the parent bank. It would appear to us that it is the responsibility of the legislatures of those countries to deal with the consequences of permitting universal banking practice. The German Federal Republic banking supervisory authorities do have extensive and detailed control powers at their disposal.

If the prohibitions contained in Section 8 are enacted, and a foreign bank would be forced to choose between having commercial banking or securities operations in the United States, the small size of the existing investment banking subsidiary and the barrier to growth would invariably cause the foreign bank to drop investment banking in favor of commercial banking. The consequence would be a lessening of competition in the United States securities markets. In furtherance of this goal, the amendments specifically contemplated the continued operations of foreign security firms in the United States markets.

The increased activity on the part of foreign investors in the United States securities market with its beneficial effect on all parties is in part traceable to the ability of foreign investment banking firms to operate in the United States. The House of Representatives must have concurred at least in part with this view since it adopted a "grandfathering"clause for those institutions engaged in them prior to May 23, 1977, then it follows in logic that it is equally valid for those engaged in them after that date.

In summary, we would urge that investment bank activity not be made subject to prohibition. If, however, it is determined to move in that direction, reason and fair play would dictate that the grandfathering date be the date of enactment of the bill.

Thank you, Mr. Chairman, for permitting us to present our client's views and for including them in the records of these hearings.

Sincerely yours,

Arnold H. Weiss

Arnold H. Weiss

STATEMENT OF

THE ASSOCIATION OF RESERVE CITY BANKERS

ON H.R. 10899

INTERNATIONAL BANK ACT

TO THE UNITED STATES SENATE

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

The Association of Reserve City Bankers appreciates the opportunity to comment on the International Banking Act (H.R. 10899) now under consideration by the Senate Banking Committee.

The Association of Reserve City Bankers was organized in 1913 shortly after the passage of the legislation which established the Federal Reserve System. Its membership is comprised of nearly 400 executive officers from over 160 banks located in the principal cities of the United States (the Reserve cities). International banking and loans to multinational concerns are major factors both for the present and future economic well being of these banks. This business, as well as the domestic loan business, is threatened by the non-regulated activities of foreign banks and their branches in this country.

In the last five years, large foreign banks operating in the United States have dramatically changed their policies and practices, while increasing their assets and numbers of installations. This strongly competitive effort is encouraged by our present regulatory system, which gives foreign banks branching and reserve requirement advantages over domestic banks. Legislation is needed to correct this unequal treatment and permit fair competition.

In previous years, the activities of foreign banks in this country were designed primarily to facilitate trade and the flow of long term investments between the United States and other countries. At present these banks are competing vigorously with domestic banks for commercial and industrial loans, money market operations, and even in some instances retail banking. From 1972 to mid 1977, the number of foreign banks operating in this country increased from 52 to 96, and the number of their facilities from 100 to 200. According to the Federal Reserve, their assets increased during this period from $18.3 b. to $61.9 b. Commercial and industrial loans made by U.S. offices for foreign banks now equal nearly 20% of the loans made by large U.S. banks to domestic and foreign borrowers. In the state of New York, foreign bank loans approximate 37% of all loans reported. Recently three foreign banks have been negotiating the purchase of three major United States banks, a move which indicates even further competitive efforts by these banks. Assets of the parent foreign banks with U.S. operations exceed one trillion dollars, or approximately the size of total U.S. domestic banking assets. Because of their vast resources and the wide range of services offered, the competition from these banks is an increasing economic threat to our domestic banking system.

H.R. 10899, as passed by the House of Representatives, would permit foreign banks to expand their interstate banking operations while domestic banks would remain subject to the restrictions on interstate branching set down by the McFadden Act. Foreign Banks are primarily engaged in wholesale, not retail banking. Their customers are generally large corporations requiring a full line of services in various states of the U.S. and in many foreign countries. Many of these corporations have switched their business to branches of foreign banks because of the latter's ability to provide all of the corporations' domestic banking requirements in several states. If the corporation has overseas business, these large foreign banks usually have branches in these countries to serve them. The fact that a corporation can transact its entire banking business with one bank is an important reason foreign banks are attracting U.S. corporate customers. Loan production offices of major domestic banks which are located in various states cannot effectively compete with foreign branches since they cannot accept deposits and loans are processed in the banks' headquarters. Edge Act corporations are at a disadvantage because of low leverage ratios and having to adhere to reserve requirements and Reg M restrictions. Limitations to a single borrower of a foreign bank are milder than those affecting most U.S. banks. Because of the above regulatory inequities and the rapid progress of foreign banks, ARCB believes that the time for remedial legislation regarding foreign banks has arrived.

Section 5 of H.R. 10899 would allow foreign banks to establish branches, agencies, commercial lending subsidiaries, or subsidiary bank outside of its home state in states which approve of this development. This provision is undesirable as it is unfair to limit branching for domestic banks and allow foreign banks to escape the strictures of the McFadden Act. ARCB supports the position of BAFT, ABA, and the Federal Reserve Board which is that, until such time as the McFadden Act is reviewed by the Congress, foreign banks should be subject to the same general restrictions on their interstate banking operations as apply to domestic institutions. ARCB does not believe it is wise or fair to domestic banks to allow foreign banks this competitive advantage in the hope that Congress will be forced to change the McFadden Act sometime in the future. ARCB agrees with the Fed Chairman in that the McFadden Act should be changed by direct confrontation and not by a back door approach. Any future changes in the McFadden Act would then apply automatically to foreign banks with Federal branches. In the interim, foreign banks would be able to take advantage of any reciprocal branching statutes enacted by the states. ARCB believes this equitable solution would be in the national interest.

We would be happy to answer any questions regarding our position on H.R. 10899.

FRENCH AMERICAN BANKING CORPORATION

ONE TWENTY BROADWAY, NEW YORK, N.Y. 10005

CABLE ADDRESS: FRENAMBANK
TELEPHONE: (212) 964-4127

June 28, 1978

The Honorable Thomas J. McIntyre
Chairman
Subcommittee on Fianncial Institutions
Committee on Banking, Housing and
Urban Affairs
United States Senate
Washington, D.C. 20010

Re: International Banking Act (H.R.10899) - Article XII Investment Companies in New York

Dear Mr. Chairman:

I am writing to urge the attention of your Committee to the impact of the proposed International Banking Act (H.R.10899) on the foreign-owned banking organizations in New York popularly known as Article XII investment companies. These organizations, which include my own company, would be regulated as "commercial lending companies" under the bill.

The investment companies operate under Article XII of the New York Banking Law. They are specialized banking institutions chartered, supervised, and examined by the New York Banking Department. They have a long history. French American Banking Corporation ("French American") was organized in 1919 to finance a renaissance of international trade between Western Europe and the United States after World War I. J. Henry Schroder Banking Corporation was organized in 1923, and European-American Banking Corporation in 1952. All three are owned by prominent European banks. French American is primarily engaged in financing international trade and commerce; it is a subsidiary of Banque Nationale de Paris (BNP), the largest commercial bank in France.

New York is extremely careful in the granting of such charter. Only three additional charters for foreign-owned investment companies have been granted since 1952.

Nordic American Banking Corporation, organized in 1975, is owned by a Swedish bank. Baer American Banking Corporation, organized in 1976, is owned by a Swiss bank. Recently, a new charter was granted to a group of Argentinian banks.

Our principal concern about the bill is that it would regulate the operations of the Article XII investment companies by rules normally applied only to commercial banks. Under Article XII of the New York Banking Law, the investment companies may not accept deposits and therefore operate under restrictions which differ from those applicable to banks.

Article XII investment companies may maintain "credit balances" for their customers incidental to the performance of specialized banking services. However, this does not allow them to receive idle deposits or to issue certificates of deposit. The impact of standard banking regulation on these nondepository institutions could force them to curtail their operations, since they would have the same costs which domestic or foreign banks have, but without the full charter powers of a commercial bank.

I do not see any significant competitive advantages of participation in the New York banking market through Article XII investment companies. New York City is an open and competitive banking market for all kinds of international banking services. Domestic banks not located in the market may participate through federally chartered Edge Act corporations. So far as I know, there are no counterparts to the Article XII investment company in other states.

The foreign-owned investment companies are principally engaged in servicing the banking needs of their international customers in New York City. As a bank holding company subject to Federal Reserve Board regulation, BNP owns French American with Federal Reserve Board approval conditioned upon the limitation that French American shall remain "principally engaged in financing or facilitating transactions in international or foreign commerce." The fact that French American's state charter privileges do not conform precisely with the federal charter restrictions of the Edge Act would seem to me to be far less important than the essentially similar international thrust of its activities.

I do not see any significant supervisory problems if the investment companies are not regulated under Section 7 of the bill. These companies have been responsible citizens of the New York banking community. The types of potential problems cited in the testimony of the FDIC Chairman for the effective regulation of foreign banks simply have no application to the investment companies. As American chartered companies they have locally accountable management and capital. The directors of French American include prominent Americans who have served for a number of years on the board.

Moreover, the three principal Article XII investment companies are regulated by the Federal Reserve Board under the Bank Holding Company Act. Under section 5(c) of that Act, the Board already possesses the authority to examine these companies, if any regulatory problems should occur.

As to the other Article XII's, they are all single state operations capable of being supervised and examined by the New York Banking Department, both in their banking activities and in their affiliate relationships. As Superintendent Siebert has pointed out, the Banking Department has over a century of experience in supervising foreign bank operations. The foreign banks owning these companies could develop multistate operations only through branches, agencies, or subsidiary banks, in which case the examination provisions of the Bank Holding Company Act would become applicable to them under the provisions of Section 8 of the bill.

For these reasons, I believe that consideration should be given to excluding the commercial lending companies from the bill, as originally recommended by the Federal Reserve Board in the 94th Congress. The Article XII investment companies have been the subject of other comment in these hearings and in the House deliberations. European-American Banking Corporation and J. Henry Schroder Banking Corporation addressed their views at pages 775-781 of the Hearings on H.R.7325 before the House Banking Subcommittee chaired by Rep. St. Germain. The New York State Superintendent of Banks commented in both her oral and written statements to your Committee on June 21, 1978. I commend these remarks to your attention. In addition, I am attaching a brief memorandum dealing with the subject in more detail and suggesting ways in which the commercial lending companies might be included in the bill without serious adverse effect on their operations.

I would like to emphasize that French American is a domestic institution. It is therefore somewhat anomalous to seek to equate it with domestic counterparts as if it were a foreign institution. There are a number of Article XII investment companies owned by domestic companies. They include the nation's largest finance companies, such as CIT Corporation, Commercial Credit Co., General Motors Acceptance Corporation, and General Electric Credit Corporation. These companies are major participants in the money and credit markets. They are important to the credit conditions on which monetary policy focuses.

Moreover, there is one commercial lending company which functions under Article V of the New York Banking Law as an agency comparable to an agency of a foreign bank. American Express International Banking Corporation is a Connecticut corporation authorized to receive "credit balances" in New York incidental to its multinational banking business.

The other Article XII's which are domestically controlled and the one commercial lending company under Article V would be excluded from the bill because they are not "controlled by one or more foreign banks."

Finally, there seems to be a strong feeling among domestic banks that Edge Act corporations are being overregulated. This feeling would appear to be earnestly shared by some members of your Committee. Senator Stevenson expressed the view in the hearings that liberalization of the Edge Act would serve to promote U.S. exports. I would hope therefore that State-chartered international banking corporations, such as French American, would not be shackled with new regulations. That would seem to be counterproductive.

The Bank Holding Company Act requires subsidiary banks to be fully insured, but leaves membership in the Federal Reserve System voluntary. It is, therefore, particularly difficult to understand why H.R.10899 should subject State-chartered organizations which cannot accept deposits mandatorily to a federal system of reserves on their "credit balance" liabilities when State banks receiving deposits may be within or outside of such federal system at the option of each bank.

Foreign-owned Article XII investment companies have operated responsibly under State supervision and regulation, some of them for a long period of years. Their operations have been shaped according to State concepts of international banking and have been built in reliance upon the integrity of their State charters. The policy reasons for dislocating the operations of a handful of State-chartered organizations in New York City, representing a very small portion of the money supply, by changing their methods and costs of doing business are not apparent.

I very much appreciate your courtesy in receiving these views. I would request that this letter and the attached memorandum be included in the record of your hearings.

Very truly yours,

Gilbert Bubendorff,
President

Enclosure

June 28, 1978

Detailed Comments of French American Banking Corporation on H.R.10899

Interstate Banking

Section 5 of the bill regulates interstate banking through "commercial lending companies." Various solutions have been advanced. The main purpose should be to facilitate the continued operation of the existing foreign-owned Article XII investment companies according to the concept of their State charter. Their business has been built in reliance upon the integrity of that charter and has been shaped in response to the State pattern of international banking activities.

This means that Section 5 should not federalize the "commercial lending companies" on the strict Edge Act model. It would be better to allow their operations to continue to be shaped in response to the considerable experience which lies behind the banking laws of the State of New York. If federal regulation is necessary, it should be structural rather than preemptive; that is to say, it should condition access to interstate operation either upon the approval of the state bank regulatory authority or, if a stricter rule is desired, upon a state statute inviting out-of-state banks to acquire commercial lending companies. New federal policies should be applied only prospectively in a way that respects operations established in good faith under existing law.

The House-passed version is preferable in promoting continued free access to the New York banking market. However, even the rejected House Banking Committee version (H.R.10899, Union Calendar No. 460) is better than the solution now being advanced by the Federal Reserve Board because the former respects the integrity of the State charter under which Article XII investment companies operate, whereas the latter seeks to federalize effective charter privileges.

French American Banking Corporation ("French American") is the largest banking operation in the United States of Banque Nationale de Paris ("BNP"). BNP's logical choice of home state under the bill is therefore New York. However, Section 5 now omits any statement of grandfather rights and also provides that no foreign bank may "operate" a subsidiary bank outside its home state. Literally, this could force BNP to choose California as its home state in order to continue operation of its subsidiary bank, French Bank of California. Since there appears to be no legislative intent to interfere with established operations of foreign banks, the prospective application of the section should be clarified by substituting the words "establish or acquire" in place of the word "operate" on line 2 of page 14. Alternatively, if this be not done, the problem could be cured by accepting those parts of the Federal Reserve recommendations calling for liberalization of the home state election and for Section 5 grandfathering as of May 23, 1977.

Capital Support of Banking Affiliates

Section 6 would apply the percentage limitations of Section 23A of the Federal Reserve Act to limit the capital support which could be provided by any insured foreign bank to its affiliated Article XII investment company. This may not be sound banking policy. The U.S. banking authorities should welcome such capital support. Moreover, U.S. law does not inhibit U.S. banks from supporting their foreign operations.

This impediment to capital support for U.S. banking subsidiary is probably not intended. It would occur because BNP has branches in New York and Chicago for which it would need to obtain federal deposit insurance. Under Section 6(c)(29), BNP would be required, as an insured foreign bank, to observe the limitations of Section 23A, of the Federal Reserve Act as if it were a member bank. Under Section 23A, a member bank may not invest more than 10 percent of its capital in any one affiliate or more than 20 percent of its capital in all affiliates. BNP's existing investment in French

30-563 O - 78 - 24

American is sufficiently large in proportion to BNP's capital and surplus as to deny BNP's ability to provide further capital support of any appreciable magnitude.

The Federal Reserve Board has recognized the flawed structure of Section 6(c)(29) and has recommended the complete elimination of restrictions on dealings of insured foreign banks with their affiliates for the time being. Under Section 7(d) of the bill, the Board is obligated to report back to the Congress on the subject within two years. Legislation on affiliate transactions has been sponsored by the Federal Reserve (S.2810) and will probably be considered by the Congress during this time span. The Board's amendment to Section 6(c)(29) would provide a good interim solution.

However, if there is any chance that the Board's recommendation might not be adopted, there is an alternate solution. The present exemption in Section 6(c)(29) could be expanded to include the relationship between foreign banks and their affiliated Article XII investment companies by adding the phrase "or subject to examination by a federal or State bank supervisory authority" before the comma on line 11 of page 30.

<u>Reserve Requirements</u>

Section 7 of the bill would impose federal reserve requirements on commercial lending companies controlled by foreign banks. This would be a radical change. Article XII investment companies are not banks and are therefore not subject to any reserve requirements under State law; they have other important limitations, notably their inability to accept idle funds or to sell certificates of deposit. The cost equation of Article XII investment company operations would be substantially altered by the new reserves.

Functionally, reserve systems are designed for banks, and yet the bill would not require reserves to be posted by nonmember U.S. banks. The exclusion of nonmember banks from the reserve requirements of the bill appears to be a reflection of the U.S. "dual banking" system. State banks may choose voluntarily to accept or reject participation in the federal system of reserves. They do so upon an assessment of relative costs and benefits.

The New York State Superintendent of Banks has expressed the view that the nondepository Article XII's should not be subject to reserve requirements. If the Article XII's assess their costs and benefits in such a way as to prefer not to be subject to the federal system of reserves, it is simply a reflection of the fact that non-interest bearing reserves would impose a severe cost disadvantage on an institution which cannot build its deposit base through idle deposits or certificates of deposit.

Reserve requirements could be excluded in the case of the commercial lending companies by making the following changes in Section 7 of the bill:

On page 32, line 2, delete the comma and the words "or (except as provided", and insert the words "of a foreign bank".

On page 32, delete lines 3 and 4 and all of line 5 except the word "any"

On page 32, delete subsection 7(a)(3) in its entirety.

Since the effect of these changes would be to eliminate the federal system of reserves for Article XII's, such companies should not have discount privileges at the Federal Reserve Banks. Accordingly, a corresponding change would need to be made in Section 7(b) of the bill by deleting all references therein to "commercial lending companies" and by making the references therein to branches and agencies read "branch or agency", with the reference on page 34, lines 1-2, reading "the terms, 'branch', 'agency', and 'foreign bank' shall have. . . ."

Examination

French American Banking Corporation is supervised as a banking organization by the New York Banking Department and is periodically examined at least once a year.

French American is conservatively managed. The ratio of its loans to its customer "credit balance" accounts has consistently gravitated around 60 percent. Cash and bank balances have averaged about 35 percent of total assets. As of December 31, 1977, the loan/customer account ratio stood at 56 percent, and cash and bank balances amounted to 41 percent of total assets.

As a subsidiary of a registered bank holding company under the Bank Holding Company Act, French American is subject to possible examination by the Federal Reserve Board under Section 5(c) of the Bank Holding Company Act.

Nonbanking or Securities Firm Affiliations

BNP's affiliations are consistent with federal banking law. BNP owns its U.S. affiliates with the approval of the Federal Reserve Board under the Bank Holding Company Act.

M. A. SCHAPIRO & CO.. INC.
ONE CHASE MANHATTAN PLAZA
NEW YORK, N.Y. 10005

TELEPHONE: (212) 425-6600
CABLE: MASCHAPIRO

June 13, 1978

Mr. William R. Weber
Counsel
Senate Banking, Housing and
Urban Affairs Committee
Room 5300
Dirksen Senate Office Building
Washington, D. C. 20510

Dear Mr. Weber:

Since its inception, I have been following the progress of HR 10899, the International Banking Act, which has now been passed by the House. It is noted that hearings will soon be held on this legislation by the Subcommittee on Financial Institutions, Chaired by Senator Thomas J. McIntyre.

I would like the article entitled "Unequal Opportunity; Growth of Domestic Banks Constricted" made a part of the record of these hearings. This article is contained in the May 1978 issue of Bank Stock Quarterly, copies of which are enclosed.

Your cooperation in this respect will be appreciated. If you think that I can be helpful to the Committee please let me know, as I shall be happy to cooperate with the Staff in any way possible.

Very truly yours,

Morris A. Schapiro

Morris A. Schapiro
President

MAS:emj
Enclosures

MAY 1978

Bank Stock Quarterly

Published by

M. A. SCHAPIRO & CO., INC.

Underwriters • Brokers & Dealers in Bank Securities

One Chase Manhattan Plaza
New York, New York 10005

Telephone 212 425-6600
Cable MASCHAPIRO

UNEQUAL OPPORTUNITY

Growth of Domestic Banks Constricted

The Douglas Amendment, Section 3(d) of the federal Bank Holding Company Act of 1956, has become an obsolete statute with perverse consequences for U.S. financial markets, consequences that were certainly never intended when Congress enacted the legislation twenty-two years ago. Under the Amendment, major opportunities in U.S. banking are effectively reserved *for foreign banks only*, since they are free to make acquisitions of banks in the United States that are foreclosed to domestic banking. This bizarre situation is illustrated by two recently announced plans, both awaiting state and federal approval.

According to one proposal announced in April, the Hongkong and Shanghai Banking Corporation, a British overseas bank with assets of $17.4 billion, will acquire control of Marine Midland Banks, Inc., 13th largest U.S. banking company with assets of $12.1 billion. The plan, which is understandably attractive to both parties, will provide Marine with $200 million in additional capital and give the Hongkong and Shanghai bank an impressive presence in New York. Marine Midland has statewide coverage through 301 branch offices. If the Hongkong and Shanghai-Marine Midland transaction is approved, which appears both desirable and likely, not only will the resulting combination be one of the major banking organizations of the world, but also a foreign-owned bank will acquire control of a member of the New York Clearing House Association at a price per share below published book value. What is striking, if not shocking, is the realization that because of the Douglas Amendment no out-of-state domestic bank or bank holding company could acquire Marine Midland or make any similar attractive investment.

A month later, in May, the London-based National Westminster Bank, with $36.6 billion in assets, and the C.I.T. Financial Corporation made public their agreement under terms of which the world-wide British banking organization will acquire 75.1 per cent of the $3.8 billion-asset National Bank of North America which is presently wholly owned by C.I.T. The National Bank of North America, also a member of the New York Clearing House Association, has equity capital of $244 million and operates 141 branches in the Metropolitan

(Continued on page 18)

IN THIS ISSUE: *Page*

Unequal Opportunity: Growth of Domestic Banks Restricted

(Continued from page 1)

area. The $300 million to be paid for a three-quarter interest reflects a 61 per cent premium over National Bank of North America's published equity.

Meanwhile, U.S. banking organizations domiciled in other states, such as California or Illinois, could not have proposed to acquire this kind of New York presence, however attractive it might appear to them. Apart from exceptions for multistate operations in existence prior to the enactment of the 1956 statute, no holding company owning a bank in one state can charter or acquire a bank in another state. In consequence, a bank with headquarters in Hongkong can acquire a New York bank, but a bank with headquarters in San Francisco cannot. London can acquire a bank in New York while Chicago need not apply. Japanese banks are free to expand through holding company acquisitions in California, expansion that would not be countenanced if proposed by a New York banking enterprise. No underlying economic realities can justify these anomalies.

The proposed acquisitions of Marine Midland and National Bank of North American are but two dramatic illustrations. There are presently 34 foreign bank holding companies operating subsidiary banks in five states. Some of these subsidiaries have extensive branch systems. The assets of these foreign-owned subsidiary banks were $16.1 billion at the end of 1977, as compared with $5.5 billion at year-end 1972.

Competition Inhibited

Meanwhile, federal and state statutes repress domestically-owned banking through geographical restrictions which are not applicable to foreign banking organizations. Many of these foreign banks are entirely comparable to major U.S. bank holding companies in size and strength and, indeed, compete with domestic banks in world markets and, increasingly, in U.S. markets as well.

This ineligibility to compete and discriminatory denial of opportunity, irrationally imposed on U.S. banking, is particularly significant in the case of problem banks the acquisition of which is supervised by government banking authorities in the interest of depositors and in the interest of the smooth functioning of financial markets. For example, when it became clear in 1974 that Franklin National Bank would have to be acquired by another organization, the Douglas Amendment severely limited the number of potential buyers. Large West Coast and Chicago banks that would presumably have been more than casually interested were automatically excluded. At the same time, for the big New York banks, obvious antitrust considerations worked to inhibit interest and weighed in the thinking of government regulators. The European-American Bank, an enterprise jointly owned by six large European banks, was the successful bidder for Franklin's assets and for its franchise and branch system. Subsequently, with the Franklin case in mind, the Federal Reserve Board asked Congress for legislation amending the Douglas Amendment so as to permit acquisition of a problem bank by an out-of-state holding company. So far, the Fed's request has been ignored in Washington. These issues have to be faced. Congress should not limit itself to exceptions to be made for banks in distress but, instead, rethink the whole question and eliminate state border lines as restraints on competition and on expansion of bank holding companies.

Prior to 1956 there were no legal restrictions on interstate acquisitions by bank holding companies. Today there are twelve multistate bank holding companies in operation, of which six are foreign-owned. These companies enjoy a special status due to protection provided by a grandfather clause when the 1956 law was enacted. Interstate direct branching by domestic banks had been effectively ruled out by the McFadden Act of 1927. All the while, advances in technology and communication, and developments both in the banking industry and in the activities of non-bank competitors, have broken down state boundaries, but banking law continues to compress the horizon of bank holding companies within state borders, as far as ownership of subsidiary banks is concerned. The language of the 1956 Act does make it possible for the states to enact laws that would permit interstate activity: "[Acquisitions across state lines are prohibited] unless the acquisition of such shares or assets of a State bank by an out-of-State bank holding company is specifically authorized by the State laws in which such a bank is located, by language to that effect and not merely by implication."[1]

[1] 12 U.S. C. § 1842 (d).

The telephone, the computer, the bank credit card, and electronic funds transfer represent waves of change, successively carrying the banking business further and further from the old structure of isolated cellular markets toward nationwide and worldwide operation and competition. In some instances, the emerging conditions have been recognized by legislation facilitating some kinds of interstate activities. For example, the 1970 Amendments to the Bank Holding Company Act fostered activity in such areas as electronic funds transfer systems, loan production offices, Edge Act companies, and banking-related businesses such as finance companies and leasing companies. These permissible activities across state lines in themselves create an environment in which the restrictions of the Douglas Amendment appear unmotivated and capricious. At the same time the activities of the competitors of commercial banks make up another pressure, reinforcing the need to relieve the banking system of artificial and antiquated geographical restraints. Manufacturing, retail, and securities giants like General Motors and Sears Roebuck and Merrill Lynch are able to offer consumer credit in competition with banks from coast to coast. And, of course, such competitors are not burdened with reserve requirements and government banking regulations. In consequence of their stature as nationwide corporations, some are also able to outflank the banking system in financing their tremendous credit operations directly through the commercial paper market.

In the same vein, competing financial institutions other than commercial banks, enjoy expanded privileges. Mutual savings banks and other competitors offer checking features on interest-bearing accounts and are able to create financial assets by crediting the deposit accounts of borrowing customers. And these competitors of commercial banks are not subject to the burden of reserve requirements and other regulations. Furthermore, they are exempt from SEC regulations since they are not issuers of stock, and relieved of reports and other obligations to shareholders since they have none. In light of the new powers of their competitors, the geographical constraints on U.S. commercial banks become the more oppressive.

State boundaries confine growing banks like the constraining wires that inhibit the growth of bonzai trees, bending back a natural expansiveness so as to produce powerful but constricted individuals. Geographical restrictions press the banks into conflict

*A Fed Governor Tells the Bankers**

Whether you agree or not, the general public thinks that the banking industry is generally anticompetitive. They see the restraints on geographical activity and the restrictive chartering as being primarily protective of your interests as bankers, not the public's interests. The public sees too many banks as owning a small kingdom that is protected from outside invasion. And a kingdom of any kind with no in-migration or threat thereof is highly vulnerable to stagnation. Denied in-migration, such a kingdom is also denied the industriousness and the vigorous competitive spirit that immigrants bring with them, particularly when those immigrants are bankers or businesses. . . .

I think it is time to tear down these artificial barriers into the banking industry and to open the borders of banking to any who wish to come or go. Banks, like all other business organizations in our country, should have the freedom to open up shop where the needs are greatest and the opportunities strongest. Not only should we allow state-wide branching by any bank organized within a state but we should also authorize interstate full-service operations for any bank authorized to do business in our country. It has been the partial breakdown of these artificial geographic barriers that I believe has thus far been the greatest public benefit of the bank holding company movement. . . .

Given the present phobia about unrestricted branching on the part of some bankers, I find it hard to understand how the House of Representatives could overwhelmingly pass, as it did, a bill to give foreign banks the authority to branch across state lines. It seems to me inconsistent to have these foreign visitors enjoy privileges that we don't authorize for ourselves. Certainly we should have one rule apply to all who are striving to perform the same public function. If this legislation is adopted, we should then have another new law that gives all federally chartered banks the freedom to operate throughout the United States without restrictions.

*Philip C. Jackson, before the Alabama Bankers Association, Mobile, Alabama, May 11, 1978.

with antitrust laws. Although there are more than 14,000 commercial banks in the U.S., excessive market share is a problem in a great many locales just because of the legal restraints on expansion into other areas, and restraints on expanding competition from other areas. Countries with a banking system composed of a much smaller number of organizations succeed in bringing more competition to bear locally than one finds in parts of the United States, because the organizations that constitute such systems compete with one another on a countrywide basis.

At the same time, domestic restrictions have artificially accelerated the development of foreign operations by large U.S. banks. Just as the Douglas Amendment has the effect of setting aside domestic opportunities for expansion as a special prerogative of foreign-owned companies, so too Federal Reserve regulations that are costly to banks, together with state and municipal tax policies, have the effect of driving the international business of U.S. banks overseas. (See "International Banking: A New Home in New York" on page 14.)

Bonzai Banks

Finally, the anomalous preferential treatment foreign bank holding companies receive under the Douglas Amendment echos a comparable situation created by the McFadden Act. Under the latter, the branching horizons of national banks are expressly tied to state policies set forth in the banking laws of the fifty states. Since the states exclude branches of out-of-state banks, there is no interstate branching. However, seven states: Massachusetts, New York, Pennsylvania, Illinois, Oregon, Washington and Hawaii, have enacted laws that admit branches of foreign banks, even though the foreign owners of those branches maintain branches in other states as well. Of the 32 foreign banks that own subsidiary banks in the U.S., 23 also operate direct branches or agencies in one or more states other than their "home" state. And 34 foreign banks that do not own a U.S. subsidiary bank have branches and agencies in more than one state. There are 54 foreign banks operating in more than one state through branches, agencies, subsidiary banks, or combinations thereof.

A striking example of disparity in branching policy is the city of Chicago which now has branches of 27 foreign banks, although out-of-state domestic banks and its own banks are not permitted a single branch in the State of Illinois. Chicago banks themselves operate branch offices in foreign cities, under laws more hospitable to branch banking than those of their own home state. Pennsylvania has most recently joined the ranks of states seeking to encourage the development of international banking centers within their borders by admitting branches of foreign banks, while retaining a structure that excludes branches of out-of-state domestic banks.

In sum, outmoded U.S. banking laws have produced a state of affairs in which the country seems determined to give foreign-owned banks advantages over our own banks in our own banking markets. One sometimes hears the view that a good solution would be simply to exclude foreign-owned banks or suitably penalize their operation to nullify their advantage. It should go without saying that such financial isolationism would be a lot worse than the present anomalies. In the first place, U.S. banking operations overseas, potentially subject to retaliatory measures, are far larger than foreign operations in the U.S. Therefore, U.S. banking would lose rather than gain by an exchange of protectionist measures here and abroad.

When the House of Representatives contemplated a provision limiting foreign banking organizations to activities in a single "home-state" to conform to the state limitations on domestic banks, both banking authorities and bankers from the states that want foreign banking were eloquent in arguing against the "protection" Congress proposed to offer them. The states that have no international banking centers recognize that the home-state rule would be the end of their chances for developing such a center, and the states that do have international centers, notably New York, California and Illinois, want their international activities to grow. Spokesmen for the money center banks that will face the competition of foreign banks in U.S. markets, and that already compete with foreign banks here and abroad, were in the forefront in opposition to regulatory inhibition of the growth of foreign banking in this country. Plainly this attitude is the right one. The only feasible direction for change is the repeal of the Douglas Amendment, followed by the repeal of the McFadden Act. The narrow-minded defense of meaningless geographical restraints is backward-looking, costly, unimaginative and, in the long run, futile.

Statement of Stroock & Stroock & Lavan

on behalf of Bank Hapoalim B.M.

We are United States counsel to Bank Hapoalim B.M., Tel Aviv, Israel (the "Bank"), a banking corporation organized under the laws of the State of Israel. In that capacity, we appreciate this opportunity to submit the Bank's views on H.R. 10899, the proposed International Banking Act of 1978, to the Subcommittee on Financial Institutions of the Committee on Banking, Housing and Urban Affairs of the United States Senate.

The bill raises a variety of major issues concerning foreign bank regulation; in this statement, however, we focus our specific comments on Section 5. This section would retain presently existing state legislation in the area of foreign bank branching by allowing interstate branching by foreign banks with the approval of the State in which the branch was located. We believe that the question of regulation concerning foreign bank branching is best left to the several states since their interest is superior to the federal interest in this area.

Congress has always been concerned with preventing the development of a highly concentrated national banking system. It has traditionally sought to preserve the dual (federal-state) banking system which provides domestic banks with choice of state or federal charter and rights. The McFadden Act and other federal statutes were intended to conform to this dual banking system by accommodating restrictive state banking policy against encroachment by out-of-state domestic banks. Interstate banking is expressly prohibited under federal law for national banks, 12 U.S.C. §36, and for state banks which are members of the Federal Reserve System, 12 U.S.C. §321. Yet pursuant to this same regulatory structure, the basic authority for national banks and state member banks to establish a new branch within a state depends upon the permissive right declared by the state law of the state in which a bank is located.

Of equal importance, the McFadden Act leaves to the states the right to extend multistate banking privileges to nonmember domestic banks. 12 U.S.C. §36; 12 U.S.C. §321. A substantial portion of domestic banks are not members of the Federal Reserve System, and therefore this right of the states is a potent one which should not be lightly dismissed. The McFadden Act restrictions were principally designed to give each state the right to determine whether it wishes to permit an out-of-state nonmember bank to enter. It was not intended to prohibit multistate operations _per se_. Although multistate banking operations have not yet developed, if and when they determine it to be advantageous, states will permit domestic banks to engage in multistate operations.

Congress has also recognized the predominance of the state interest in the provisions of the Bank Holding Company Act. 12 U.S.C. §1841 _et seq_. Pursuant to Section 3(d) thereof, the several states are authorized to formulate their own policies regarding the acquisition of in-state banks by out-of-state holding companies. The option is expressly left open to any state to invite a holding company from another state to acquire a bank within its borders. 12 U.S.C. §1842(d).

Concern for legitimate state interests supports existing arrangements. Several states have chosen by positive legislation to encourage the multistate possibilities for foreign banks by allowing foreign banks to operate within their borders. These states have deliberately chosen to exercise the option they possess to allow foreign bank branching and have deliberately chosen not to exercise their option to allow domestic banks from other states to operate within their borders. If a state believes it to be consistent with its interests (as several clearly do) to invite foreign banks to operate branches or agencies within its borders, the federal government should not preempt state policy when no signs of abuse or of preeminent federal interest have been shown. A state should have the authority, as recognized in other federal banking legislation, to structure the financial institutions within its borders in a manner which it believes best serves the needs and interests of its residents. In the absence of some compelling national interest the federal government, consistent with the principles of the McFadden Act, should not preempt state statutes and regulations in this area.

The passage of H.R. 10899 would support the established policy of numerous states (Alaska, California, Florida, Georgia, Hawaii, Illinois, Massachusetts, New York, Oregon and Washington) in welcoming and admitting foreign banks although they have operations in other states. The presence of foreign banking operations within a state increases both domestic and international trade, encourages exports of the products of local industry and promotes international ties of understanding and friendship. By admitting foreign banking in one form or another (e.g. branches, agencies), each of the above-named states has chosen to promote competition and the expansion of financial services to encourage its growth as a money market, as a source of jobs, income, and tax revenues and to encourage the foreign growth and profitability of local enterprises. Most importantly, each has sought by deliberate planning to attract foreign banks to an aspiring financial center city, planning which would not have been wasted if Section 5 of H.R. 10899 passes unamended.

To restrict a foreign bank to operations in one state would likely result in foreign banks choosing New York as their single "home state" of operations in the foreseeable future. A substantial portion of the current financing of import and export transactions already takes place in New York and international customers may often prefer to make and receive payment in New York. For these reasons, if multistate branching of foreign banks were prohibited by federal legislation, most foreign banks would be unable to establish themselves elsewhere and, therefore, other states which seek to become financial and trading centers would be impeded in that goal.

If Section 5 were amended as urged by the Chairman of the Federal Reserve Board, the combination of restrictive legislation and marketplace realities may determine that New York alone would glean the advantages accruing to a state with a foreign banking presence and efforts by other states would effectively be restricted. Such a result raises the basic question of the extent to which it is appropriate for legislation to disturb marketplace determinations of the location of foreign banks within the United States.

In addition, limiting the possibility of development of such financial centers may work to the disadvantage of the international position of U.S. banking and commerce generally. Federally restricting a state's ability to invite out-of-state foreign banking operations into its borders may harm both the legitimate interests of the various states and the opportunities for U.S. banks to operate throughout the geographic borders of other countries without serving any compelling national interest.

The House recognized these potential ills when it passed H.R. 10899 with Section 5 in form substantially different from the version voted out of the House Committee on Banking, Finance and Urban Affairs. The bill, as passed by the House and as before the Senate now, allows the dual bank system to continue, to the benefit of residents of all states, not just the established financial centers.

If, upon due consideration, this subcommittee should reject the concept that foreign banking regulation should be left to the states, we strongly urge that Section 5, permanently "grandfather" branches of foreign banks established as of the date of enactment of the International Banking Act of 1978. The use of an earlier date, if the proposed legislation were amended as urged by the Federal Reserve Board, would result in considerable hardship for the Bank.

Bank Hapoalim B.M. is the second largest bank in Israel in terms of total assets and deposits, with 270 branches in Israel and offices in a variety of cities throughout the world. The Bank is controlled by Hevrat Ovdim the economic arm of the Histadrut, which is the general federation of labor in Israel. In the last few years the Bank has sought to service U.S.-Israeli trade by establishing branches in the United States. The bank opened its first branch in the United States in November 1974 when its Rockefeller Center Branch in New York City commended operations. In addition, in April 1977, it opened a second branch in the City of New York located in the Borough of Queens. An agency of the Bank was opened in Los Angeles, California, early in 1977, but it does not have power to accept deposits from the general public in conformity with California law.

The Bank has invested considerable effort and expense to expand its operations into two other major metropolitan areas during the past year. These new branches are located in Chicago, Illinois and Boston, Massachusetts. The Bank contemplates a possible branch in Philadelphia, Pennsylvania. In addition to the expenditures incurred by the Bank in insuring strict compliance with the application procedures required by the Illinois Commissioner of Banks and Trust Companies and the Massachusetts Board of Bank Incorporation, the Bank incurred major expenses in locating appropriate branch offices in downtown Boston and Chicago.

The Bank's business is generated in large part by Israeli companies operating in the United States, private individuals having business contacts with Israel and American corporations trading with Israeli firms. The volume of Israel's trade with the United States has grown substantially in recent years and a major portion of Israel's imports are derived from the United States. The Bank has played a significant role in facilitating this trade and the new United States branches will enhance the Bank's capabilities to finance U.S.-Israeli trade. It should also be borne in mind that in many aspects the Bank's American operations are unique, and provide little competition to domestic banks and savings institutions.

In summary, we urge passage of H.R. 10899, with Section 5 in its present form. Passage would allow continuation of the states' very important role in regulation of foreign banks; contribute to expansion of international banking and trade in states other than the principal financial centers; maintain effective protection of banking customers' interests; and not conflict with any legitimate interest of the federal government.

We hope the foregoing views will be helpful to the subcommittee.

Respectfully submitted,

STROOCK & STROOCK & LAVAN

Of Counsel:

Rita E. Hauser
Walter Pozen
Judah Sommer

June 21, 1978

EAB | **European American Banking Corporation**

LIONEL S JASSY
Senior Vice President, Gen Counsel

June 29, 1978

The Honorable Thomas J. McIntyre
Chairman
Subcommittee on Financial Institutions
Senate Committee on Banking,
Housing and Urban Affairs
Room 5300 - U.S. Senate
Washington, D.C. 20510

Re: Hearings on H.R. 10899

Dear Senator McIntyre :

Without burdening the record of your June 21 hearings on H.R. 10899 with an additional statement, we want your Committee to know that European-American Banking Corporation, a New York Article XII investment corporation, associates itself with the position expressed in the letter dated June 28, 1978, of French-American Banking Corporation, with the statement of the Institute of Foreign Bankers and with the statement of the New York Bank Superintendent to the extent that these submissions to your Committee have explained the reasons why it would be discriminatory and unnecessary to include New York Article XII investment corporations within the scope of the International Bank Act of 1978 (H.R. 10899).

Coverage of such non-depository institutions was added by the House in 1976. The House Report at that time explains that "commercial lending companies", as they are called in the Bill, is intended to mean New York Article XII investment corporations and nothing else.

We would appreciate it if this letter could be included in the record of your hearings.

Respectfully yours,

Lionel Jassy

10 Hanover Square, New York, New York 10015 (212) 437-2343

U.S. Labor Party Statement

Congress must immediately enact a one-year moratorium on foreign takeovers of American financial institutions, pending the passage of legislation securing the safety of the American credit system. The last few week's spate of British takeovers of American banks, which shows only the tip of the iceberg of the influx, represents an attempt by British financial circles to grab a decisive share of American credit and hence political control in the United States. This distress sale must be halted to give Congress time to enact broader measures to ensure the continued flow of cheap credit for American industry, agriculture, and foreign trade. The proposed moratorium would apply only to foreign purchases of existing banking and other financial institutions, not to foreign banks' opening of branches, agencies, and representative facilities.

These British financial interests are collaborating with Federal Reserve Chairman G. William Miller, Controller of the Currency John Heimann, and other officials, to transform the American credit system into a free-for-all resembling the speculation-oriented Eurodollar market abroad, to London's advantage and the severe detriment of the American economy.

The U.S. Labor Party is in possession of evidence that G. William Miller is in collusion with British banks to select appropriate takeover victims, on the pretext of targetting "weak banks" in need of "injections of capital." Furthermore, the Labor Party possesses evidence that John Heimann, in malfeasance of the Controller's duty under law, is suppressing evidence that the British institutions concerned are wildcatting in the United States in an attempt to hedge against their own fiduciary weakness. Three significant takeovers have occurred in the last two months—Hong Kong and Shanghai Bank's purchase of Marine Midland, National Westminster's purchase of National Bank of North America, and Standard and Chartered's purchase of Union Bank of California. By themselves, these takeovers have placed control of almost $20 billion in American bnaking assets in British hands. Controller John Heimann has stated publically that six more such transactions are currently in preparation.

Miller's objective is three-fold:

(1) The British equity-buying spree, which includes operations of British bank holding companies across state lines, will prepare the way for elimination of all controls against interstate banking.

(2) The explosion of foreign banking operations in the United States tends to merge the American credit system with the unregulated offshore dollar, or "Eurodollar" market.

(3) The ultimate regulation of American banks through supranational entities through the International Monetary Fund. Bank of England Governor Gordon Richardson publicly demanded, in a speech in Berne, Switzerland, June 13, that the IMF have powers to review virtually all international bank lending operations. Miller proposed the same, including IMF powers to impose reserve requirements; limit the total size of bank operations; impose conditionality on borrowers; and set interest charges, to the IMF's Interim Committee, according to evidence in possession of the U.S. Labor Party.

Interstate banking would be a disaster. Doubters should inspect the Canadian banking system, where the domination of five money-center banks channels most national savings into Eurodollar-oriented operations, and starves the regions for credits needed for economic development. Such centralization of credit in a few money centers would threaten the political balance of the country.

The Labor Party does not oppose the expansion of foreign banking in the United States through normal means, as a benefit to American international trade. But Congress must call a halt to British scavenging. The country requires time to put into effect measures of the type USLP National Chairman Lyndon H. LaRouche, Jr. outlined in the "U.S. Labor Party Nonpartisan Action Program for 1978"; a two-tier credit system favoring long-term industrial investment and development of new technologies, and a tax structure favoring investment in new plant and equipment and household incomes rather than speculation.

Appendix I

Miller Fed Is "Compromising" On British Banking Invasion

(The June 19, 1978 Journal of Commerce editorial, "Congress and the Foreign Banks," pointed out that G. W. Miller has watered down the Nixon Fed's International Banking Act to get the legislation through before Congress is alarmed by the British invasion. Here, excerpts.)

It wouldn't be surprising if the latent protectionist tendencies of certain congressmen and bankers were touched off by the hyperactivity of the British banks in America. . . .

It certainly looked like a plot. But the British banks have good reasons for acting now. The dollar may well go up and the equity prices of the various banks may gain. There may not be as many bargains around in the future. Standard Chartered is more than anxious to reduce its exposure in Africa and all the banks would like to establish a solid dollar base if trouble develops again in the Euromarkets.

And there is, of course, the danger that Congress, which has been rather mellow about the foreign banks, might clamp down in the future. Ironically, the British banks in their rush to establish in the U.S. market could touch off what they sought to avoid—a harsh response from Congress. . . .

Chairman William Miller has already backed away, however, from his predecessor's position on multistate activities for foreign banks. Former Chairman Arthur Burns would have allowed agencies of foreign banks to establish in various states if they limited their activities to international banking.

The Federal Reserve last week, conscious that the Senate was unlikely to be more restrictive on foreign bank branches than the House, offered to compromise further. . . .

But the Federal Reserve wants some sort of action while the mood is still good. At the rate things are going, Congress could turn mighty suspicious. The legislation when it emerges might not be much, but it is something.

Protect the American Banking System, Says Administration Official

(These are excerpts from "Foreign Bank Influx: Hearings on Today," by Judith Miller, on the June 21 Senate Banking hearings, which appeared in the June 21 New York Times.)

"The protection of American deposits and the safety and soundness of the nation's banking system is a cornerstone of our economy," said a high Administration official. "Buying a bank is not the equivalent of buying an American company, and the reaction from Congress, if the trend continues, is bound to be pronounced. . . ."

Although bankers and financial analysts are hesitant to be quoted by name or institutional affiliation, they express concern about the implications of recent purchases and the probability that such acquisitions will continue. Some bankers expressed worry about increasing competition in commercial and industrial loans American banks face from foreign institutions here. . . .

Not everyone, of course, shares the worries. Henry C. Wallich, a member of the Board of Governors of the Federal Reserve, for example, pointed out in an interview that American bank presence abroad—assets total about $200 billion—dwarfed the $66 billion foreign bank presence here. Americans, he said, would not risk retaliation by foreign nations.

Moreover, he said that such a reaction would not be consistent with the American philosophy of free trade and economic competition and that the purchase of American banks by foreigners would actually strengthen the dollar and attract foreign capital here.

"The welcome mat is out for responsible foreign banks," Mr. Wallich said. . . .

Some of the regulatory questions raised by the increasing foreign presence include: . . .

To what extent should foreign parent banks be able through their American extensions to use the discount window of the Federal Reserve, taking out low-cost loans that might possible be used, for example, to rescue a troubled parent that has encountered difficulties in the Eurodollar market?

The banking industry, Congress and the regulators are deeply split over the response to those questions. . . .

Appendix II

[Reprinted from Executive Intelligence Review, June 27, 1978]

Miller Plans British Reorganization of U.S. Banking System

WILL U.S. DOLLAR BE USED FOR OR AGAINST 'GRAND DESIGN'?

Federal Reserve Chairman G. W. Miller, Bank of England Governor Gordon Richardson, cooperating U.S. regulatory authorities, Congressmen, and the major City of London banks are rapidly advancing legislation in Washington to reorganize and deregulate the U.S. banking system along British lines to the extent of "bringing the Eurodollar market back home," as one bank lobbyist noted June 20. Beginning with Senator Thomas McIntyre's (D-NH) June 21 Senate Banking Committee Subcommittee on Financial Institutions hearings on the International Banking Act of 1978, Miller and his collaborators have opened a debate on, first, a total "reassessment," in the words of Comptroller of the Currency John Heimann, of all U.S. banking law, and, second "putting out the welcome mat" as Fed Governor Henry Wallich put it, for the ongoing invasion of British bank takeovers in the United States.

The Miller-Richardson objective is at the core political—however significant the financial and economic implications of such a program. If U.S. banking soundness can be undermined by the proliferation of unregulated interstate banking, wiping out thousands of regional banks on which local industry depends, and by the weakening of Federal Reserve regulation and the ultimate effective removal of reserve requirements (as in the Euromarkets), American banks' assets and structure generally will fall into a vicious circle of unsoundness that will dwarf the notorious Euromarket LDC loan situation, where the banks are locked into ever more rollovers of unsound debt. They will thus be vulnerable not merely to literal financial takeover by the British banks, who have already purchased U.S. banks worth some $20 billion in assets this year and who plan to purchase dozens more. U.S. banking community leaders, U.S. financial officials. and the entire economic muscle of the world's industrial giant would itself in thereby adopting wholesale British thinking be totally manipulable by the threadbare but clever gamemasters of the City of London, who would thus achieve a 30-year strategic objective.

AT STAKE IN FINANCIAL BATTLE

What is at stake in a fight over the world's financial surplus is the following: Will the U.S. join the Grand Design (see accompanying article), based on the May 6 Bonn-Moscow economic accords, for world industrial development, or will London, judoing U.S. financial muscle, manage to torpedo those European-led initiatives and retain theoretical control of world banking?

If the latter. foolish U.S. bankers will get far more, not less, regulation, for ultimately Miller and Richardson plan a world IMF receivership. As documented in last week's EIR, Richardson, Miller, and the London Economist warned publicly and simultaneously during the June 7–13 period that British banks are soliciting dollar deposits in the U.S. as a cushion in expectation that a new Herstatt crisis, like that which followed the 1974 collpase of the West German Herstatt Bank, will trigger a Euromarket and U.S. banking panic. (See "Crisis for Eurodollar Market, IMF Pushed as World Policeman," Executive Intelligence Review, Vol. V, no. 24.) Richardson openly concluded that in such a case the International Monetary Fund (IMF) must be brought in for "surveillance . . . of the general economic and financial policies . . . of the nations of the world."

Miller and his ally Treasury Secretary W. M. Blumenthal laid out the same plan at the May 24 Mexico City International Monetary Conference—emphatically including the United States. At a mid-April IMF Interim Committee meeting Fed head Miller issued a call for tightening Euromarket controls, the first step toward an international credit crunch and monetary panic. At the same meeting, Blumenthal proposed expansion of IMF "surveillance" to include IMF teams to plan "general economic and financial policy" of member nations, in short, the London bankers' plan of action for controlling a provoked global financial crisis to their own advantage. (See "Eyewitness Report: Blumenthal, Kissinger Demand IMF Imperialism at Mexico City Conference," Executive Intelligence Review, Vol. V, no. 20.)

West German central bank and private banking officials have reacted with horror to the Miller Euromarket proposal. Commented one German source: "Miller's plan would mean destroying the recycling of petrodollars as a system, and also the refinancing operations of the banks. All this would be broken up, and lending to the Third World blocked as a result."

An emergency policy statement released from U.S. Labor Party headquarters June 21 called upon Congress for immediate action to block the Miller-London gameplan. The statement proposed that Congress swiftly adopt powers to impose a one-year moratorium on British takeovers of American banks.

WAR OVER THE DOLLAR SURPLUS

Once having mastered political control in the U.S., the British would be in a position to halt the Grand Design formulated by West German Chancellor Helmut Schmidt and Soviet President Brezhnev, the success of which hangs on the willingness and ability of Secretary of State Vance and allied U.S. industrialists to bring the American technological machine into leadership of a global export drive.

Miller and Richardson pretend to offer U.S. bankers such as the gullible Chairman Walter Wriston of Citicorp or Chairman David Rockefeller of Chase Manhattan a choice. They can support—as they now do—the quick-profits free-for-all deregulation of U.S. banking, on the grounds of Comptroller Heimann that it will bring a capital inflow into the U.S., a stock market rise, cheap money, and a housing and consumer credit boom. Not only does this evade the basic world financial problem of how to lay a sound basis for the $600 billion world dollar overhang by channeling those dollars into social surplus-creating industrialization programs that will make the $300 billion in illiquid Third World debt again payable. It also creates that very same illiquid situation in the U.S. economy, with a bubble of loans on the same speculative basis that made the Eurodollar market bad banking in the first place. For none of the Miller capital inflow will go to technological investment.

But what the British fear is that support will come from U.S. banking and government for the other choice on the table—the fabulous long-term profits of the "Financial Grand Design" aspect of the May 1978 Schmidt-Brezhnev accords. A long list of U.S. corporations, from Occidental Oil to PepsiCo, who find that Citibank and Chase are up to their John Heimann-imposed lending limits on such export finance, are already borrowing heavily in continental Europe with European government guarantees to finance East-West trade—and are in on the planning of using an estimated $150 billion of world reserves to finance high-technology development projects.

THE BRITISH BANK TAKEOVERS

Britain's U.S. acquisitions are not intended as part of a plan to buy out each and every available U.S. commercial and savings bank—an impossibility for the British. Rather, they have been targeted to obtain operating command positions from which to rig the rules and credit flows of the U.S. markets.

To gain these command positions, the British have exchanged less than $1 billion in rapidly depreciating pounds sterling for U.S. bank stock representing $20 billion in U.S. dollar assets. Over the past three months, the London-controlled Hong Kong Shanghai Bank purchased Marine Midland Bank, with $12.1 billion in depository assets; the Standard Chartered Bank purchased Union Bancorp with $4.7 billion in assets; and the National Westminster Bank purchased the National Bank of North America with $3.8 billion in assets.

The British are far from finished. Comptroller of the Currency John Heimann predicts that six additional major U.S. banks are takeover targets within the next few months. One knowledgeable source placed the figure closer to 20.

But the Federal Reserve Board, charged with oversight of the takeovers, remains unperturbed. "What's wrong with the British coming to the U.S.?" a senior Midwestern Federal Reserve Bank official asked June 20. "This broadens the base of the U.S. banking system," he boasted, "adding depth and breadth to U.S. lending power."

THE REORGANIZATION PLAN

While London's base-building in the banking system continues, the British remain aware that the key to their plans resides in their ability to create an uncontrolled speculative climate in the U.S. The centerpiece is London's drive to repeal regulative U.S. banking laws. These include legislation that prevents U.S. banks from doing interstate banking and acquiring other large U.S. banks (the McFadden Act), holding minimum reserve requirements (Regulation R), and others. The removal of these regulatory strictures will generate a banking war wiping out up to 13,000 of the 14,000 U.S. banks, according to a senior officer of Barclay's Bank.

As the first step to wipe these laws off the books, Federal Reserve Board Governor Philip Jackson proposed that foreign bank holding companies be allowed to operate across state lines, clearing the way for the elimination of domestic interstate banking restrictions. Jackson's proposals are embodied in the debate on the International Banking Act of 1978, which passed the House of Representatives in April, and on which the Senate Banking Subcommittee held hearings June 21, The bill, sponsored by liberal Rep. St Germaine (D-RI) and Sen. McIntyre (D-NH), is being deceitfully hailed by Miller as providing "greater regulation of foreign banking," but in fact rubberstamps existing non-regulation of foreign banks and in so doing has provided a debating topic for the deregulation, rather, of U.S. domestic banking.

Plans are even on the books for what a Wall Street bank analyst June 21 referred to as "London in New York". On June 21 New York Governor Hugh Carey signed into law a bill eliminating reserve requirements for New York banks making international loans—a step that will create the same conditions of uncontrolled lending that now exist on the uncontrolled Eurodollar market. This bill, called the "Free Port" or "Free Banking Zone" bill, has been coupled to another piece of legislation also signed by Carey, to facilitate moving large branch offices of Lloyd's of London and other British insurance companies to New York.

According to one banker, Fed Chairman Miller may hold up Federal Reserve approval of the New York City "Free Port" until the mechanism exists for setting up 10 to 15 other "Free Ports" in other parts of the country.

U.S. DEBATE GROWS

The debate in U.S. financial policy circles over the Miller-Richardson program is growing daily. Chase Manhattan and Citicorp (see interviews in "Economics") at this writing support the entire deregulation scenario on the ground of the fast buck, but one suspects they narrowly focus on the interstate banking plan out of fear to look over their shoulders at the IMF and what it could do to the U.S. under the "crisis management" piloted in New York City's notorious Municipal Assistance Corporation. Barclay's Bank International (USA) Chairman Louis Morel, testifying for the Barclay's run Institute of Foreign Bankers of which he is also chairman, told the McIntyre Committee hearings June 21 that most major U.S. commercial banks would rather see full U.S. deregulation than the "old-fashioned" imposition of regulations in foreign banks.

At the Federal Reserve itself debate is furious. While Miller, Henry Wallich (see his New York Times interview in "Economics"), and Philip Jackson are pushing dereguation hard, they have to contend with Nixon-era U.S. patriots like Governor Phillip Coldwell, the ex-chief of the Dallas Fed, who recently attacked the New York "Free Zone" plan as "Eurodollar market-style" bad monetary policy. That Miller is still giving lipservice to the Fed's traditional responsibility to ask regulation is a testimony to the strength of such regional voices at the Fed.

At the June 21 Senate hearings on the International Banking Act (IBA) of 1978 the British came under attack from Senator Stevenson and the Bankers Association for Foreign Trade (BAFT), representing a national constituency of U.S. banks and industrialists who are still well briefed on Britain's plans.

Stevenson and BAFT have introduced a Senate amendment to the Act which would (1) ban (as the Nixon Fed Act did) interstate domestic activities of foreign banks; (2) allow foreign banks to bring in Eurodollars only if they are to be used to finance U.S. exports; and (3) allow some interstate liberalization for U.S. banks, again, only if they are expanding to finance exports.

"We have no problems with the foreign banks like the Germans coming in for productive purposes," said a Stevenson staffer, "but that's not what the British banks want. They are trying to ameliorate their own foreign debt problems by moving into the U.S." They want to bring the Eurodollar market here and "we don't want this to happen".

Someone "high in the Administration," according to the New York Times accounts of the hearings, is in back of this, "and it sure isn't the Treasury—it must be the White House," commented Washington sources yesterday. "The protection of American deposits and the safety and soundness of the nation's banking system is a cornerstone of our economy," said the Administration official cited in the Times, and the question is, "to what extent should foreign banks be able, through their American extensions, to use the discount window of the Federal Reserve, taking out low-cost loans that might possibly be used to rescue a troubled parent bank (i.e., British headquarters—ed.) that has encountered difficulties in the Eurodollar market?"

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

G. WILLIAM MILLER
CHAIRMAN

June 1, 1978

The Honorable William Proxmire
Chairman
Committee on Banking, Housing and Urban
Affairs
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

It is a pleasure to respond to your request for the Board's views on H.R. 10899, the International Banking Act of 1978 ("IBA") that was passed by the House of Representatives on April 6, 1978.

For several years the Board has supported legislation that would establish a system of Federal supervision and regulation over the growing United States banking operations of foreign banks. The principle that has guided these efforts has been one of national treatment, or, nondiscrimination towards foreign banks operating in this country. The Board is gratified that the House of Representatives again has seriously addressed this issue and passed legislation that would subject foreign banks to a degree of Federal supervision and regulation.

In several important areas, however, the IBA might be further improved in order to implement a system of national treatment with respect to foreign bank operations in the United States. For example, under section 5 of the IBA, foreign banks could continue to operate and to expand their interstate banking operations while domestic banks would remain subject to the interstate strictures of the McFadden Act and various State statutes. The Board believes that the policy of restricting interstate banking (and particularly the McFadden Act) deserves review by the Congress and the Board is prepared to assist in that endeavor. In the meantime, however, to allow foreign banks to establish branches and agencies in several States is inconsistent with the goal of national treatment and affords a distinct competitive advantage to foreign banks. To eliminate this imbalance, the Board believes that foreign banks should be subject to interstate banking restrictions comparable to those applicable to our domestic institutions.

As to supervision, in its present form, the IBA does not provide for Federal examination of U.S. offices of foreign banks. However, the assets and condition of a bank with operations in several States cannot be successfully analyzed by the banking authority of one particular State. In order to provide for adequate supervision, a central examining authority is essential. The Federal Reserve's experience as a bank regulator and its particular expertise in the area of international banking and finance make it uniquely suited to this task.

Although the treatment of the interstate banking and examination issues in the IBA are important deficiencies, the Board recognizes that the IBA contains many worthwhile provisions. For the first time, the United States operations of major foreign banks would be subject to Federal monetary controls; non-United States citizens would be permitted to acquire a majority of the shares of Edge Corporations and to serve on their boards of directors; foreign banks operating in the United States would be subject to the provisions of the Bank Holding Company Act and, in particular, the Act's nonbanking prohibitions. These objectives have been consistently supported by the Board.

While it supports these provisions, the Board believes that the IBA should be improved in several respects. The Board urges that the Committee consider the following issues in its deliberations on the IBA:

Federal Branches and Agencies (§ 4)

Federal branches and agencies would only be permitted in a State in which the foreign bank does not operate a State branch or agency and which does not by law prohibit the establishment of branches and agencies of foreign banks. In effect, this provision permits States to veto the establishment of federally-sanctioned banking offices. This result is a clear departure from the dual banking system. The Board recommends that States be afforded a consultative role on the establishment of Federal branches and agencies but that the States not be placed in a position of vetoing such offices.

Interstate Banking (§ 5)

The IBA would perpetuate the present system which permits foreign banks to have banking facilities in several States, a privilege not currently afforded domestic institutions. This incongruous situation is pointed up by the recently announced proposals by large foreign banks to acquire controlling interests in two large domestic banks. In each instance, the foreign bank already has banking operations in States other than the State in which the domestic bank to be acquired is located. Furthermore, even after the acquisition, the new parent foreign bank would be at liberty to establish additional banking offices in various States. In effect, by simply changing ownership, a major domestic banking institution would become part of a banking organization with multi-State facilities.

As previously mentioned, the Board believes that, until such time as the McFadden Act is reviewed by the Congress, foreign banks should be subject to the same general restrictions on their interstate banking operations as apply to domestic institutions. The Board, therefore, recommends that section 5 be amended to make Federal branches and agencies subject to the branching restrictions of the McFadden Act and to make State branches subject to the same restrictions that State laws impose on domestic State banks. Any future changes in the McFadden Act would then apply automatically to foreign banks with Federal branches or agencies as well as to domestic banks. In the interim, foreign banks would be able to take advantage of any reciprocal branching statutes enacted by the States.

The Board believes that a reasonable compromise would be to exempt newly-established agencies from interstate restrictions so long as the agencies limit their operations to internationally-related activities as are permissible for Edge Corporations in the United States. Currently, an Edge Corporation may be established outside of the home State of its parent bank. Permitting agencies of foreign banks to operate on an interstate basis while limiting their activities to those permissible for Edge Corporations would enable foreign banks that do not choose to establish their own Edge Corporations (see § 3 of the IBA) to compete directly on an equal footing with U.S. institutions engaged in international banking and finance.

Federal Deposit Insurance (§ 6)

Section 6 would require Federal deposit insurance for a branch of a foreign bank where the law of the State in which the branch is located requires such insurance for State-chartered banks. While the great majority of States require deposit insurance for State-chartered banks, § 6 would leave the question of whether to require insurance up to the individual States. The Board believes that Federal deposit insurance should, as a matter of Federal law, be mandatory for branches of foreign banks in the United States. The Board also believes that deposits at such branches whether or not held by U.S. citizens and residents should be covered consistent with current practice and with the principle of nondiscrimination.

Federal Reserve Authority (§ 7)

a. Although the IBA would subject branches, agencies and commercial lending companies of large foreign banks to monetary controls, it would not subject their State-chartered subsidiary banks to the same controls. The appropriate test for imposition of monetary controls is the capability of the parent institution to compete and participate in major money and credit markets and not the organizational form of operation. Since U.S. banks owned by large foreign banks generally do participate in major money and credit markets, they should be subject to monetary controls. Furthermore, subjecting branches and agencies, but not subsidiary banks, to monetary controls creates the situation whereby a major bank could shift its activities to an existing or newly-established subsidiary bank to avoid domestic Federal Reserve reserve requirements. The Board, therefore, recommends that § 7 be amended to permit imposition of Federal Reserve monetary controls on all U.S. operations of large foreign banks.

b. Section 7 provides that the Board may request from State banking authorities copies of their examination reports of U.S. offices of foreign banks. The Board, however, is given no independent authority to examine the accounts, books and affairs of such offices. It is important that the Board be given examination authority with respect to the U.S. offices of foreign banks. Without such authority the Board would be ill equipped to discover and deal with unsafe or unsound banking practices as it is charged to do by § 11 of the IBA. It would also be hampered in dealing with foreign bank offices that are granted access to System credit by § 7 of the IBA. More importantly, however, vesting the Board with examination authority would provide the only means of coordinated supervision of foreign banks' interstate banking operations currently subject to the jurisdiction of several banking authorities.

Guidelines (§ 9)

The Board does not believe that detailed guidelines are necessary to assist State or Federal supervisory authorities in acting on applications by foreign banks. The provisions of § 9 calling for consultation among bank regulatory authorities, the Secretaries of State and Treasury appear to be adequate to ensure that important foreign policy issues are considered.

In conclusion, the Board's view that the regulation of foreign bank operations in the United States is an appropriate matter of Federal concern has been strengthened by developments of recent years. The IBA and the Board's proposed amendments would address that concern by subjecting the United States offices of foreign banks to Federal statutory and regulatory requirements. Legislative language accomplishing the above recommendations and some more technical amendments to the IBA are being prepared by the Board's staff and will be furnished shortly. The Board earnestly hopes that the Committee will act favorably and expeditiously on the Board's recommendations and on the IBA.

Sincerely,

Bill