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S. 163

To require the Secretary of the Treasury to perform a study of the structure, operation, practice and regulation of Japan's capital and securities markets, and their implications for the United States.

IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. DASCHLE introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To require the Secretary of the Treasury to perform a study of the structure, operation, practice and regulation of Japan's capital and securities markets, and their implications for the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Foreign Capital and
5 Securities Markets Study Act of 1993".

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

1 (1) Japan’s capital and securities markets have
2 assumed a global significance;

3 (2) growing interaction between the capital and
4 securities markets of the United States and Japan
5 can affect national policies on exchange rates, in-
6 vestment, fiscal policy, and public debt;

7 (3) Japan’s capital and securities markets have
8 different structures, operations, practices, and regu-
9 latory regimes than United States markets;

10 (4) the different structures, operations, prac-
11 tices, and regulatory regimes of Japan’s capital and
12 securities markets could cause significant economic
13 effects in the United States; and

14 (5) a study by the Secretary of the Treasury
15 therefore is required to gain a fuller understanding
16 of the structure, operation, practice, and regulation
17 of Japan’s capital and securities markets and their
18 implications for the United States.

19 **SEC. 3. STUDY OF CAPITAL AND SECURITIES MARKETS.**

20 (a) IN GENERAL.—The Secretary of the Treasury
21 (hereafter referred to as the “Secretary”) shall conduct
22 a study of the capital and securities markets of Japan in
23 accordance with subsection (b). Not later than 1 year after
24 the date of the enactment of this Act, the Secretary shall
25 submit a report to the Congress on the structure, oper-

1 ation, practice, and regulation of Japan's capital and secu-
2 rities markets, and their implications for the United
3 States.

4 (b) STUDY TOPICS.—In conducting the study re-
5 quired by subsection (a), the Secretary shall consider—

6 (1) with regard to Japan's capital and securi-
7 ties markets—

8 (A) methods used by Japanese companies
9 to raise capital, and the cost of such capital, at
10 present and historically;

11 (B) Japanese methods of corporate govern-
12 ance, particularly with regard to the effective-
13 ness of shareholder meetings, proxy solicita-
14 tions, and other methods of shareholder partici-
15 pation, the strength of the consumer movement
16 in Japan and its implications for shareholder
17 rights, techniques used by corporate manage-
18 ment regarding shareholder participation in cor-
19 porate governance, and the general effectiveness
20 of shareholder rights in the supervision of cor-
21 porate managers;

22 (C) practices and techniques used by Japa-
23 nese securities brokers and dealers;

24 (D) the prevalence of loss guarantees and
25 similar practices in securities dealing;

1 (E) the prevalence of companies having
2 common directors, especially directors common
3 to financial institutions and client industrial
4 companies;

5 (F) the practice known as “stable
6 shareholding” and other reciprocal shareholding
7 relationships, especially between vendors and
8 customers;

9 (G) the role played by banks and other fi-
10 nancial institutions in capital and securities
11 markets, particularly with regard to equity par-
12 ticipation, participation in corporate govern-
13 ance, investment practices, and adequacy of col-
14 lateral;

15 (H) the financial strength of Japanese
16 banks, including the adequacy of capital and
17 loan loss reserves, the impact of current trends
18 in securities values on bank capital, and the im-
19 pact of current trends in real estate values on
20 bank profitability, loan defaults, and the ade-
21 quacy of collateral;

22 (I) trends in Japanese real estate and se-
23 curities values, particularly in relation to sav-
24 ings rates, the adequacy of collateral, loan de-
25 falcations, bankruptcies, investment in the

1 United States, and capital repatriation from the
2 United States;

3 (J) the adequacy of disclosure require-
4 ments imposed on industrial corporations,
5 banks, securities houses, and other financial in-
6 stitutions and the extent of compliance by such
7 organizations, including disclosure of primary
8 bank and reciprocal or similar shareholding
9 relationships;

10 (K) the use of securities and real estate
11 holdings as collateral, and the implications of
12 any decline in value of such collateral; and

13 (L) the adequacy of judicial relief available
14 to foreign investors claiming injury under Japa-
15 nese law, including the availability of adminis-
16 trative remedies, the sufficiency and effective-
17 ness of discovery procedures and the timeliness
18 of relief; and

19 (2) with regard to the economic effects of such
20 markets on the United States—

21 (A) the magnitude of United States invest-
22 ment in Japanese securities, particularly by
23 United States pension funds, and the implica-
24 tions for United States investors of the struc-
25 tures, operations, practices, and regulations of

1 Japan's capital and securities markets, includ-
2 ing the safety of securities investments, the va-
3 lidity of price and volume signals on Japanese
4 exchanges, the ability to participate in cor-
5 porate governance, and other protections of
6 shareholders' rights;

7 (B) the implications for United States se-
8 curities markets, particularly the risk that de-
9 velopments in Japan could have consequences
10 for the United States;

11 (C) the implications for United States cap-
12 ital markets, including international liquidity,
13 United States interest rates, Japanese invest-
14 ment in the United States, capital repatriation
15 to Japan, and domestic capital supply;

16 (D) the effect on United States macro-
17 economic policies, including interest rate policy,
18 exchange rate policy, fiscal policy, monetary
19 policy, and public debt policy;

20 (E) the implications for the competitive-
21 ness of United States enterprises, including the
22 comparative cost of capital, duties to sharehold-
23 ers, research and development expenditures,
24 and investments in plant and equipment; and

1 (F) the effectiveness of remedies available
2 to United States investors in Japanese securi-
3 ties, and the amount of dealing in Japanese se-
4 curities in the United States, whether directly
5 or indirectly.

6 (c) CONSULTATIONS.—The Secretary shall consult
7 with the Chairman of the Securities and Exchange Com-
8 mission, the United States Trade Representative, and
9 such other agencies or persons as the Secretary may deem
10 necessary to complete the study and report required under
11 this Act. The Secretary may consult with agencies of the
12 Government of Japan, Japanese exchanges, and such
13 other Japanese persons or organizations as the Secretary
14 may deem appropriate.

15 **SEC. 4. DEFINITIONS.**

16 For purposes of this Act the term “security” has the
17 same meaning as in section 3(a)(10) of the Securities Ex-
18 change Act of 1934 (15 U.S.C. 78c(a)(10)).

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