

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3408

To require foreign insurance companies doing business in the United States to disclose any financial dealings they had with individuals who survived or died in the Holocaust, to provide for the Attorney General of the United States to submit requests to such companies regarding claims on behalf of such individuals, and to prohibit insured depository institutions from transacting any business with or on behalf of any such foreign insurance companies that fail to comply with such disclosure requirements or fail to adequately respond to such requests, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 5, 2001

Mr. FOLEY introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To require foreign insurance companies doing business in the United States to disclose any financial dealings they had with individuals who survived or died in the Holocaust, to provide for the Attorney General of the United States to submit requests to such companies regarding claims on behalf of such individuals, and to prohibit insured depository institutions from transacting any business with or on behalf of any such foreign insurance companies that fail to comply with such disclosure requirements or fail to adequately respond to such requests, and for other purposes.

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 “Comprehensive Holo-  
5 caust Accountability in Insurance Measure”.

6 **TITLE I—PROVISIONS APPLICA-**  
7 **BLE WITH RESPECT TO CER-**  
8 **TAIN FOREIGN INSURANCE**  
9 **COMPANIES**

10 **SEC. 101. PROHIBITION RELATING TO FAILURE TO DIS-**

11 **CLOSE FINANCIAL TRANSACTION INFORMA-**  
12 **TION.**

13 (a) IN GENERAL.—Any covered foreign insurance  
14 company (as such term is defined in section 104), or any  
15 subsidiary thereof, may not conduct any form of business  
16 in the United States, including participating, directly or  
17 indirectly, in any aspect of the payment system within the  
18 jurisdiction of the United States (including any clearing  
19 or electronic fund transfer system) or conducting any busi-  
20 ness with a United States bank, unless the company dis-  
21 closes to the Attorney General, in accordance with sub-  
22 section (b), the name of any listed Holocaust victim (as  
23 such term is defined in section 104) with whom the com-  
24 pany had any financial dealing.

1 (b) MANAGEMENT OF DISCLOSURES BY DEPART-  
2 MENT OF JUSTICE.—The Attorney General shall designate  
3 an office in the Department of Justice to which disclosures  
4 shall be made in accordance with subsection (a). Such of-  
5 fice shall take such action as may be appropriate to make  
6 the disclosures available to the public.

7 **SEC. 102. SUBMISSION OF REQUESTS TO COVERED FOR-**  
8 **EIGN INSURANCE COMPANIES BY ATTORNEY**  
9 **GENERAL.**

10 (a) OBTAINING INFORMATION REGARDING RE-  
11 QUESTS.—The Attorney General shall take any action nec-  
12 essary to obtain, from the International Commission on  
13 Holocaust Era Insurance Claims and covered foreign in-  
14 surance companies, information regarding any out-  
15 standing requests (as such term is defined in section 104)  
16 that is necessary to carry out this section.

17 (b) NOTIFICATION OF VICTIMS.—The Attorney Gen-  
18 eral shall notify, in writing, each listed Holocaust victim,  
19 or the heirs or beneficiaries of such victim, of—

20 (1) the requirement under subsection (a) to ob-  
21 tain information;

22 (2) the requirement under subsection (c) to  
23 submit requests; and

24 (3) the opportunity of such victim, or heirs or  
25 beneficiaries, under subsection (d) to request that

1 the Attorney General not submit the request regard-  
2 ing such listed Holocaust victim.

3 (c) SUBMISSION OF REQUESTS ON BEHALF OF  
4 BENEFICIARIES.—Subject to subsection (d), as soon as  
5 practicable after receipt of information pursuant to sub-  
6 section (a) regarding an outstanding request but not later  
7 than 60 days after such receipt, the Attorney General shall  
8 submit the request, on behalf of the maker of such out-  
9 standing request, to the covered foreign insurance com-  
10 pany involved.

11 (d) OPT-OUT.—If, before the submission of an out-  
12 standing request pursuant to subsection (d), the Attorney  
13 General receives a written request from a listed Holocaust  
14 victim, or the heirs or beneficiaries of such victim, not to  
15 submit the outstanding request, the Attorney General  
16 shall not submit such request and shall notify the victim,  
17 or the heirs or beneficiaries, that the outstanding request  
18 was not submitted.

19 (e) PROHIBITION RELATING TO FAILURE TO COM-  
20 PLY WITH REQUEST.—If any covered foreign insurance  
21 company does not respond in a satisfactory manner to a  
22 request submitted to such company pursuant to subsection  
23 (b) before the expiration of the 60-day period beginning  
24 upon receipt of such request by such company, the Attor-  
25 ney General may issue an order prohibiting such covered

1 foreign insurance company, and any subsidiary thereof,  
2 from conducting any form of business in the United  
3 States, including participating, directly or indirectly, in  
4 any aspect of the payment system within the jurisdiction  
5 of the United States (including any clearing or electronic  
6 fund transfer system) or conducting any business with a  
7 United States bank. The Attorney General shall vacate  
8 such order upon a satisfactory response by the company  
9 to such request.

10 (f) **MANAGEMENT OF OUTSTANDING REQUESTS BY**  
11 **DEPARTMENT OF JUSTICE.**—The Attorney General shall  
12 designate the same office designated under section 101(b)  
13 as the office in the Department of Justice responsible for  
14 collecting the information obtained pursuant to subsection  
15 (a) of this section and submitting requests pursuant to  
16 subsection (b) of this section.

17 **SEC. 103. AVAILABILITY OF CIVIL ACTIONS.**

18 (a) **FEDERAL CAUSE OF ACTION.**—

19 (1) **IN GENERAL.**—There shall exist a Federal  
20 cause of action for any covered claim.

21 (2) **STATUTE OF LIMITATIONS.**—Any action  
22 brought under paragraph (1) shall be filed not later  
23 than 20 years after the date on which the denial of  
24 the original request was made.

1 (b) SUBJECT MATTER JURISDICTION.—The district  
2 courts shall have original jurisdiction of any civil action  
3 on a covered claim (whether brought under subsection (a)  
4 or otherwise).

5 (c) PERSONAL JURISDICTION.—Notwithstanding any  
6 provision of Rule 4 of the Federal Rules of Civil Procedure  
7 to the contrary, in a civil action on a covered claim (wheth-  
8 er brought under subsection (a) or otherwise) commenced  
9 in a district where the defendant is not a resident—

10 (1) the court may exercise jurisdiction over  
11 such defendant on any basis not inconsistent with  
12 the Constitution of the United States; and

13 (2) service of process, summons, and subpoena  
14 may be made on such defendant in any manner not  
15 inconsistent with the Constitution of the United  
16 States.

17 (d) DEFINITIONS.—For purposes of this section:

18 (1) The term “covered claim” means a claim  
19 against a covered foreign insurance company that  
20 arises out of the insurance coverage involved in an  
21 original request.

22 (2) The term “original request” means a re-  
23 quest that—

24 (A) seeks payment of any claim on insur-  
25 ance coverage that—

1 (i) was provided by a covered foreign  
2 insurance company;

3 (ii) had as the policyholder, insured,  
4 or beneficiary a listed Holocaust victim;  
5 and

6 (iii) was in effect during any portion  
7 of the 13-year period beginning with 1933  
8 and ending with 1945; and

9 (B) was made by a listed Holocaust victim,  
10 or the heirs or beneficiaries of such victim, to  
11 the covered foreign insurance company or the  
12 International Commission on Holocaust Era In-  
13 surance Claims.

14 **SEC. 104. DEFINITIONS.**

15 For purposes of this title, the following definitions  
16 shall apply:

17 (1) COVERED FOREIGN INSURANCE COM-  
18 PANY.—The term “covered foreign insurance com-  
19 pany” means the following companies:

20 (A) Assicurazioni Generali S.p.A.

21 (B) Union Des Assurances de Paris.

22 (C) Victoria Lebensversicherungs AG.

23 (D) Winterthur Lebensversicherungs Ge-  
24 sellschaft.

25 (E) Allianz Lebensversicherungs AG.

- 1 (F) Wiener Allianz Versicherungs AG.
- 2 (G) Riunione Adriatica di Sicurta.
- 3 (H) Vereinte Lebensversicherungs AG.
- 4 (I) Basler Lebens-Versicherungs Gesell-
- 5 schaft.
- 6 (J) Deutscher Ring Lebensversicherungs
- 7 AG.
- 8 (K) Nordstern Lebensversicherungs AG.
- 9 (L) Gerling Konzern Lebensversicherungs
- 10 AG.
- 11 (M) Manheimer Lebensversicherung AG.
- 12 (N) Der Anker.
- 13 (O) Allgemeine Versicherungs AG.
- 14 (P) Zuerich Lebensversicherungs Gesell-
- 15 schaft.
- 16 (Q) Any other foreign insurance company
- 17 that the Attorney General determines was in a
- 18 position to have financial dealings with any in-
- 19 dividual who was subject to the Holocaust.
- 20 (2) LISTED HOLOCAUST VICTIMS.—The term
- 21 “listed Holocaust victim” means an individual whose
- 22 name which is on either of the following lists:
- 23 (A) LIST OF SURVIVORS.—The list of Jew-
- 24 ish Holocaust Survivors maintained by the

1 United States Holocaust Memorial Museum in  
2 Washington, D.C.

3 (B) LIST OF DECEASED.—The list of indi-  
4 viduals who died in the Holocaust maintained  
5 by the Yad Veshem of Jerusalem in its Hall of  
6 Names.

7 (3) OUTSTANDING REQUEST.—The term “out-  
8 standing request” means a request that—

9 (A) seeks payment of any claim on insur-  
10 ance coverage that—

11 (i) was provided by a covered foreign  
12 insurance company;

13 (ii) had as the policyholder, insured,  
14 or beneficiary a listed Holocaust victim;  
15 and

16 (iii) was in effect during any portion  
17 of the 13-year period beginning with 1933  
18 and ending with 1945;

19 (B) was made by a listed Holocaust victim,  
20 or the heirs or beneficiaries of such victim, to  
21 the covered foreign insurance company or the  
22 International Commission on Holocaust Era In-  
23 surance Claims; and

24 (C) was not responded to in writing by the  
25 covered foreign insurance company or such

1 International Commission within the 60-day pe-  
2 riod beginning on receipt of the request by the  
3 covered foreign insurance company.

4 (4) SUBSIDIARY.—The term “subsidiary”  
5 means, with respect to a covered foreign insurance  
6 company, any company—

7 (A) 25 percent or more of whose class of  
8 voting securities is directly or indirectly owned  
9 or controlled by such covered foreign insurance  
10 company, or is held by such insurance company  
11 with the power to vote;

12 (B) the election of a majority of whose di-  
13 rectors or trustees is controlled in any manner  
14 by such covered foreign insurance company; or

15 (C) with respect to which the management  
16 or policies of which such covered foreign insur-  
17 ance company has the power, directly or indi-  
18 rectly, to exercise a controlling influence.

1 **TITLE II—PROVISIONS APPLICA-**  
2 **BLE TO UNITED STATES**  
3 **BANKING INSTITUTIONS**

4 **SEC. 201. LIMITATION ON INSURED DEPOSITORY INSTITU-**  
5 **TIONS.**

6 Section 18 of the Federal Deposit Insurance Act (12  
7 U.S.C. 1828) is amended by adding at the end the fol-  
8 lowing new subsection:

9 “(x) PROHIBITION ON TRANSACTIONS WITH CER-  
10 TAIN INSURANCE COMPANIES OR THEIR AFFILIATES.—

11 “(1) IN GENERAL.—No insured depository in-  
12 stitution may accept any deposit from, maintain any  
13 deposit on behalf of, offer or provide payment serv-  
14 ices to or on behalf of, participate directly or indi-  
15 rectly in any aspect of the payment system (includ-  
16 ing any clearing or electronic fund transfer system)  
17 for or on behalf of, hold any credit balance for,  
18 make any loan or other extension of credit to or for  
19 the benefit of, or engage in any other financial activ-  
20 ity or transaction with or on behalf of any covered  
21 foreign insurance company, as such term is defined  
22 in section 104 of the Comprehensive Holocaust Ac-  
23 countability in Insurance Measure (including any  
24 company the Attorney General determines is de-

1 scribed in subparagraph (Q) of such section), or any  
2 affiliate of such company—

3 “(A) during the period beginning 15 days  
4 after the enactment of the Comprehensive Holo-  
5 caust Accountability in Insurance Measure and  
6 ending on the date on which the Attorney Gen-  
7 eral provides notice through publication in the  
8 Federal Register that such company has com-  
9 plied with the disclosure requirements contained  
10 in section 101(a) of such Act; or

11 “(B) during the period that an order  
12 issued under section 102(e) of such Act by the  
13 Attorney General, prohibiting such company  
14 from conducting business in the United States,  
15 is in effect.

16 “(2) LIMITED EXCEPTION FOR AFFILIATES.—

17 “(A) IN GENERAL.—If an insured deposi-  
18 tory institution is itself an affiliate of a foreign  
19 insurance company described in paragraph (1),  
20 paragraph (1) shall not apply so as to  
21 prohibit—

22 “(i) the payment of dividends on any  
23 shares of stock in such insured depository  
24 institution which are held by the foreign

1 insurance company or any affiliate of such  
2 company; or

3 “(ii) the investment of additional cap-  
4 ital in such insured depository institution  
5 by the foreign insurance company or affil-  
6 iate.

7 “(B) REGULATIONS.—Any payment or in-  
8 vestment described in subparagraph (A) shall  
9 be subject to, and shall be made in accordance  
10 with, such regulations, including any limitation,  
11 as the Attorney General or the appropriate  
12 Federal banking agency may prescribe.”.

13 **SEC. 202. LIMITATION ON UNINSURED BRANCHES, AGEN-**  
14 **CIES, AND COMMERCIAL LENDING COMPANY**  
15 **AFFILIATES OF FOREIGN BANKS.**

16 Section 7 of the International Banking Act of 1978  
17 (12 U.S.C. 3105) is amended by adding at the end the  
18 following new subsection:

19 “(1) PROHIBITION ON TRANSACTIONS WITH CERTAIN  
20 INSURANCE COMPANIES OR THEIR AFFILIATES.—

21 “(1) IN GENERAL.—No branch, agency, or com-  
22 mercial lending company which is controlled by a  
23 foreign bank may accept any deposit from, maintain  
24 any deposit on behalf of, offer or provide payment  
25 services to, participate directly or indirectly in any

1 aspect of the payment system (including any clear-  
2 ing or electronic fund transfer system) for or on be-  
3 half of, hold any credit balance for, make any loan  
4 or other extension of credit to or for the benefit of,  
5 or engage in any other financial activity or trans-  
6 action with or on behalf of any covered foreign in-  
7 surance company, as such term is defined in section  
8 104 of the Comprehensive Holocaust Accountability  
9 in Insurance Measure (including any company the  
10 Attorney General determines is described in sub-  
11 paragraph (Q) of such section), or any affiliate of  
12 such company—

13 “(A) during the period beginning 15 days  
14 after the enactment of the Comprehensive Holo-  
15 caust Accountability in Insurance Measure and  
16 ending on the date on which the Attorney Gen-  
17 eral provides notice through publication in the  
18 Federal Register that such company has com-  
19 plied with the disclosure requirements contained  
20 in section 101(a) of such Act; or

21 “(B) during the period that an order  
22 issued under section 102(e) of such Act by the  
23 Attorney General, prohibiting such company  
24 from conducting business in the United States,  
25 is in effect.

1 “(2) LIMITED EXCEPTION FOR AFFILIATES.—

2 “(A) IN GENERAL.—If a branch, agency,  
3 or commercial lending company which is con-  
4 trolled by a foreign bank is itself an affiliate of  
5 a foreign insurance company described in para-  
6 graph (1), paragraph (1) shall not apply so as  
7 to prohibit—

8 “(i) the payment of dividends on any  
9 shares of stock or a similar investment in  
10 such branch, agency, or company which  
11 are held by the foreign insurance company  
12 or any affiliate of such company; or

13 “(ii) the investment of additional cap-  
14 ital in branch, agency, or company by the  
15 foreign insurance company or affiliate.

16 “(B) REGULATIONS.—Any payment or in-  
17 vestment described in subparagraph (A) shall  
18 be subject to, and shall be made in accordance  
19 with, such regulations, including any limitation,  
20 as the Attorney General, the Board, the Comp-  
21 troller of the Currency, or the Federal Deposit  
22 Insurance Corporation may prescribe.”.

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