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Is national treatment still viable? U.S. policy in theory and practice

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Abstract

National treatment, which precludes the use of rules that discriminate between foreign and domestic firms, seeks to ensure equality of competitive opportunity for foreign firms entering or operating in a host country. National treatment is a generally accepted principle for international trade in financial services. It is the basis for commitments by the twenty-four countries belonging to the Organization for Economic Cooperation and Development (OECD) and for the current negotiations on trade in services in the Uruguay Round of the General Agreement on Tariffs and Trade (GATT). This paper provides an analysis of national treatment and alternative principles in the context of the banking sector, with the U.S. experience as an example. ; The first section of the paper presents a conceptual analysis of national treatment and of principles that go beyond national treatment that have been used or proposed to govern domestic market access for foreign firms. The second section discusses the development and application of the U.S. policy of national treatment in the context of the conflicting demands created by the internationalization of banking and a host-country regulatory structure that differs significantly from that of other major industrial countries. The treatment of nonbanking activities and interstate activities of foreign banks that operate banking offices in the United States are used as examples of the U.S. approach. The final section presents the conclusions.

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