

## **BANK ACT**

### **CLAUSES 14 - 26**

#### ***Overview***

The *Bank Act* regulates banking in Canada. The Act contains comprehensive rules regarding the incorporation, ownership, powers and regulatory supervision of banks. Of particular importance to the *World Trade Organization Agreement Implementation Act* is the fact that the *Bank Act* contains numerous limitations on the ability of non-residents to own banks. In addition there are limits on the share of the Canadian market that can be occupied by foreign bank subsidiaries; i.e. banks incorporated under Schedule II of the *Bank Act* that are controlled by foreign banks.

#### ***WTO Commitments***

Pursuant to the General Agreement on Trade in Services, which is one of the agreements that made up the WTO Agreement, Canada made a number of commitments in the area of financial services. Chief among these were the commitments to provide WTO members with national treatment and most-favoured-nation treatment. National treatment means providing to financial institutions owned by non-Canadians and to non-Canadian investors in financial institutions the same treatment as provided to Canadian owned institutions or to Canadian investors in financial institutions. Most-favoured-nation treatment means providing to financial institutions owned by WTO members and to WTO investors the same treatment as provided to institutions owned by residents of any other country or provided to investors from any other country.

It should be noted that in our Schedule to the General Agreement on Trade in Services we reserved the rule that a foreign bank subsidiary, other than a NAFTA country foreign bank subsidiary, must receive the approval of the Minister of Finance for each branch it opens in addition to its head office and one branch. The reservation means that we do not have to change this rule despite the fact that it does not accord national treatment when compared with the treatment given to Canadian controlled banks and despite the fact that it does not accord most-favoured-nation treatment when compared to the treatment given to our NAFTA partners.

#### ***Summary of the Amendments***

These amendments implement national treatment and most-favoured-nation treatment by doing three things: the removal of the 10/25 ownership constraints on non-residents; the