

regulatory authorities and the banks.⁸⁹ Administrative guidance is a form of moral suasion that carries no official penalties for non-compliance, but can result in the withholding of regulators' permission for a certain application, for example, in order to encourage a bank's compliance.⁹⁰ This practice allows the banking authorities "...significant flexibility to mold regulations to changing circumstances and to develop ad hoc solutions as problems arise, without giving particular concern for the precedential implications of the action."⁹¹

5.1.1 The Canadian Experience

Prior to the 1981 revision of Canada's Bank Act, Canadian banks only had representative offices in Japan. The 1981 revisions allowed foreign banks direct entry into Canada, and Japanese authorities subsequently allowed Canadian banks direct entry into Japan.⁹² By 1987, the six largest Canadian banks had received branch status in Japan.⁹³

Unfortunately, the collective experience of Canadian banks in Japan has not been good in terms of profitability.⁹⁴ They have faced two problems in generating spread-based business.⁹⁵ First, they have been unable to compete with Japanese

⁸⁹ See T.F. Cargill and G.F.W. Todd, *op. cit.*, p. 54; U.S. Department of Treasury, *op. cit.*, pp. 221-2; H. Moudi, *op. cit.*, p. 286; and General Accounting Office, *Deposit Insurance, Overview of Six Foreign Systems*, NSIAD-91-104, Washington D.C., February 1991, p. 27.

⁹⁰ Administrative guidance is not restricted to the banking sector. It has also been cited as an informal barrier to trade in petroleum products (by the Korean government) and textiles. See B. Balassa and M. Noland, *Japan in the World Economy*, Institute for International Economics, Washington, D.C., 1988, pp. 216-7; and E.J. Lincoln, *Japan's Unequal Trade*, The Brookings Institution, Washington, D.C., 1990, p. 15.

⁹¹ T.F. Cargill and G.F.W. Todd, *op. cit.*, p. 54.

⁹² See R.W. Wright and S. Huggett, *A Yen For Profit: Canadian Financial Institutions In Japan*, The Institute for Research on Public Policy, Halifax, Nova Scotia, 1987, p. 13.

⁹³ See T. Papailiadis, *op. cit.*, p. 1.

⁹⁴ The following discussion is based on R.W. Wright and S. Huggett, *op. cit.*, pp. 14-8.

⁹⁵ Spread-based business refers to the income banks receive from borrowing money at one interest rate (retail deposits, for example) and lending money at another, higher interest rate.