

**Banking Services Denied to U.S. Citizens Abroad:
Bad for the U.S. Economy
Inhibiting for Growth in U.S. Exports**

U.S. law, policies and regulations are resulting in Americans being denied access to basic banking services, in the U.S. and overseas.

As a direct result of existing and newly proposed U.S. regulations, many U.S. and overseas banks have closed accounts held by U.S. citizens living outside of the U.S., and many banking institutions outside the U.S. now refuse to open any new accounts for Americans. Recently enacted legislation from the Treasury and Congress will only worsen this situation.

The following five policies are severely prejudicial to U.S. citizens, to the U.S. economy, and to the United States in general.

1. Qualified Intermediary (QI) regulations

The newly reinforced QI regulations are so burdensome that **banks overseas are simply closing the accounts of American clients** rather than implement complex and expensive new compliance and reporting requirements. Requiring non-U.S. banks to open their files to U.S. auditors in order to verify that U.S. citizens' accounts had been properly declared is not only a very heavy administrative burden, it is an attempt to infringe on the sovereignty of other nations, and hence many have judged these new regulations unacceptable. Banking associations from several countries have indicated their intention to simply bar U.S. citizens from doing business with them rather than attempt to comply, and indeed numerous banks have already taken steps to close U.S. citizen accounts.

We propose that these new QI regulations simply be shelved.

2. Patriot Act

The Patriot Act tightened the Know-Your-Customer (KYC) regulations, requiring U.S. banks to document the identity of their clients in greater detail. Many U.S. banks have interpreted these requirements to mean that they cannot know enough about a customer if he or she lives outside of the United States. Consequently, **they are closing accounts of U.S. citizens solely on the basis of their overseas addresses.**

Some U.S. citizens resident abroad have had accounts which they had held for decades summarily closed. Without a U.S. bank account, previously simple transactions such as paying U.S. taxes, settling bills and obligations, or paying children's education expenses become complicated or even impossible.

U.S. institutions which have forced overseas Americans to close their accounts include Ameriprise, Bank of America, Citibank, E-Trade, Fidelity, INGDirect, JPMorganChase, Morgan Stanley, Smith Barney, T.Rowe Price, Vanguard, Wachovia, Washington Mutual and Wells Fargo.

We propose that U.S. law and regulations prohibit U.S. banks from refusing an American citizen customer on the basis of his or her non-U.S. address.



3. FBAR filing requirements

The FBAR filing requirements, which were intended strictly as an anti-money laundering measure, are increasingly being misused by the IRS as a tax enforcement tool. The new more inclusive Treasury FBAR filing requirements for foreign bank accounts are excessive and carry unduly harsh penalties for not filing or incorrect filing, even when this is done unknowingly. Due to the extra-territorial reach of the FBAR to bank accounts where the U.S. citizen has simple signatory authority, with no financial interest, **non-U.S. companies and organizations are removing U.S. citizens from positions of signing responsibility**, to protect their privacy and strategic interests from the U.S. tax authorities. Americans who have played a major role in supporting the U.S. economy and increasing U.S. exports are being shut out from international business activity because non-U.S. companies and organizations find the IRS regulations far too intrusive and even illegal under local laws.

We propose that the Treasury revert to the previous FBAR filing requirements and ensure the elimination of any requirement to report on accounts over which one has no financial interest but only signatory authority.

4. Foreign Account Tax Compliance Act (FATCA)

As a result of the recent passage the HIRE legislation which included the Foreign Account Tax Compliance Act, foreign financial institutions, foreign trusts, and foreign corporations are being required to provide information about their U.S. account-holders, grantors and owners, which will only accelerate the growing unwillingness of foreign financial institutions to accept U.S. clients rather than comply with the even more intrusive and onerous regulations. Associations of U.S. citizens living overseas estimate that the **potential costs to the U.S. economy** of FATCA could far exceed the \$900 million annual revenue projected by the supporters of the legislation. American partnerships with foreign investors will be impeded. Foreign investment in the United States will be restrained.

U.S. policy needs to shift away from attempting to impose requirements on foreign jurisdictions, which can never be reasonably expected to accept limitations on their sovereign right to regulate their own banking industries. Instead, the U.S. should look to protect its interests and those of its citizens by implementing policies that facilitate – rather than hinder – trade and the financial transactions that support it.

5. Treasury Department General Explanations of the Administration’s Fiscal Year 2011 Revenue Proposals issued in February 2010

The assumption behind new regulations contained in this document is that **any U.S. citizen who has a foreign bank account is guilty of tax evasion until proven innocent**, and the Treasury Department has made no effort whatsoever to distinguish between those Americans who maintain financial relationships overseas because of residence abroad, job requirements, marital status, etc. and those who are evading taxes.

In particular, the requirement to “report certain transfers” (pages 62 to 64 of the document) effectively means that every transaction by U.S. citizens living overseas will have to be reported by the taxpayer and the financial institution holding the account; and any foreign currency amounts will have to be translated into USD at the daily rate of exchange. This requirement is not only an administrative nightmare; it unfairly attempts to impose this burden selectively on Americans based solely on where



they live and bank. It is unimaginable that domestically-resident Americans would ever accept such a requirement, and hence it is not reasonable to expect overseas Americans to be any more amenable to such a proposal. Furthermore, a **new reporting is proposed in addition to the enhanced FBAR requirements**. On a practical basis, overseas banks will have all the more reason to refuse to maintain accounts for ordinary taxpaying U.S. citizens.

We propose that these new regulations be dropped.

Fair Credit Reporting Act

Congress must ensure that overseas Americans can access their credit history as per Paragraph 614 of the Fair Credit Reporting Act.

Conclusions

At a time when the United States needs to attract foreign capital, expand its exports, and become more competitive, these policies are **discouraging investments from overseas**. While there is no doubt that the United States remains a financial powerhouse, it is **no longer the only option for investment purposes**, and investors are already choosing to invest elsewhere.

President Obama has called for greatly increased U.S. exports; however the regulations and proposals listed herein **discourage honest, hardworking, taxpaying American citizens from working overseas to fulfill this goal. Without U.S. citizens on the ground overseas to represent American exporters, the National Export Initiative will fail.** This legislation is not only harmful to American citizens living and working all over the world, including those performing significant services for the U.S. Government, it is **extremely harmful to the economic and financial future of the United States.**

Lastly, although many legislators have the best of intentions in their attempt to catch U.S. citizens who are evading taxes, the United States is nevertheless highly **hypocritical** in its policies imposed on overseas citizens and institutions. In November 2009, a Financial Secrecy Index was published for the first time by the Tax Justice Network, an independent organization promoting transparency in international finance. **Ranking number one in the index for banking secrecy is the U.S. State of Delaware** – on a par with the Cayman Islands, Bermuda and Dubai. The Mexican government has repeatedly asked the United States to provide the names of Mexican citizens who hold accounts in the U.S. which are not declared to Mexico, but the U.S. has refused to comply, even though it is asking for exactly the same information on U.S. account holders from banks all over the world.

We strongly urge the U.S. Administration and Congress to take action now to ensure that these severely harmful policies are revised, so that U.S. citizens living abroad can have normal access to banking services worldwide, and thus continue their work on behalf of the U.S. economy and the interests of the United States in general.

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