

DEMOCRATS ABROAD FBAR/FATCA TASK FORCE March 2015 Update Report

FEBRUARY 2015 FATCA Door Knock

During the week starting Monday February 23 led a delegation of representatives from the following organisations representing Americans living outside the US to conduct a series of meetings in Washington DC about FATCA:

- Democrats Abroad (DemsAbroad),
- American Citizens Abroad (ACA)
- Association of Americans Resident Overseas (AARO), and
- Federation of American Women’s Clubs Overseas (FAWCO) and FAWCO Alumni USA (FAUSA).

The delegation conducted 35 meetings across the five days with the offices of these officials and discussed 1) the adverse impact FATCA is having on Americans abroad¹ and 2) reforming the FATCA implementation rules to create a Safe Harbor from FATCA reporting for Americans abroad² and the banks and brokerage houses they have accounts with.

Senate Finance Committee (SFC)

Orrin Hatch (R-UT)
Ron Wyden (D-OR)
Charles Schumer (D-NY)
Mark Warner (D-V)
Ben Cardin (D-MD)
Bob Menendez (D-NJ)
Tom Carper (D-DE)
Michael Bennet (D-CO)
Debbie Stebenow (D-WA)
Office of SFC Minority Staff

House Ways & Means Committee (HW&MC)

Sandy Levin (D-MI)
Richard Neal (D-MA)
Sam Johnson (R-TX)
Kevin Brady (R-TX)
Office of HW&MC Minority Staff

US Treasury
National Taxpayer Advocate
White House Council of Economic Advisers

Senate

Minority Leader Harry Reid (D-NV)
Majority Leader Mitch McConnell(R-KY)
Rand Paul (R-KY) anti-FATCA legislation sponsor
Mike Lee (R-UT) anti-FATCA lawsuit advocate
Sheldon Whitehouse (D-RI) FATCA legislation sponsor
Barbara Mikulski (D-MD)
Kirsten Gillibrand (D-NY)
Jeff Merkley (D-OR)
Al Franken (D-MN)
Jon Tester (D-MT)

House

Minority Leader Nancy Pelosi (D-CA)
Carolyn Maloney (D-NY) Americans Abroad
Caucus Co-Chair
Chelli Pingree (D-MA)
Dina Titus (D-NV)
Mike Honda (D-CA)
Scott Tipton (R-CO)

We believe it was a highly productive week. Our most important take-away was advice from Deputy Assistant Secretary of the Treasury – International Affairs Robert Stack. The advice was that Treasury would have the authority to implement the Safe Harbor reform to FATCA, and no legislative instrument (a laborious and time-consuming amendment to the Act) would be required.

¹ See attached “February 2015 FATCA Door Knock Discussion Points.”

² See attached “DA Position Paper on FATCA”

In order to motivate Treasury to create an Americans abroad Safe Harbor from FATCA reporting, however, we need to convince Treasury, and other we spoke to, that it would *an effective policy adjustment*. They want evidence that the financial account closures we are observing are attributable to FATCA. Also, they seek assurances from foreign financial institutions that they would end their “lock-out” of American customers if their financial accounts in their country of residence were excused from all FATCA reporting, ie reporting by the taxpayer and reporting by the financial institution.

RESPONDING TO TREASURY

The Task Force now has its work cut out for it. We will continue to work in collaboration with ACA, AARO and FAWCO/FAUSA which may facilitate a better, faster response to Treasury. We are determined to “strike while the iron is hot”!

We now need the help of Americans abroad.

1. Tying account closures and new account refusals to FATCA

- We have refreshed our request for Americans abroad to send us redacted copies of bank communications –letters, emails or policy statements - that document a link between the bank’s rejection of US customers and their obligation to comply with FATCA. Bank documents - with personal details deleted – can be send to FATCA@democratsabroad.org.
- We have a number of documents sent to us by Americans abroad who responded to our June/July 2014 FATCA Survey, in which we also made this request. But FATCA was fully implemented in July 2014 and we suspect that many banks changed their policy regarding American accounts in the months following.
- We urge Americans abroad to spread the word about our need for this information and guarantee that full confidentiality will be preserved.

2. Demonstrating that the Safe Harbor will cause foreign financial institutions to resume servicing US customers

- ACA has already engaged in discussions with banks to test the Safe Harbor rule. Where we have contacts with banks, large and small, (Netherlands, Ireland, Czech Republic, Singapore and Australia, so far) DemsAbroad is doing the same.
- We are also engaging with banking associations, meeting with them to present this important FATCA reform and assess its potential to end the “lock outs”. And we want your help to do it.
- The Task Force is preparing a guide that country committee leaders can use to meet with banking associations. We hope these associations can provide feedback about the FATCA Safe Harbor.

WHAT ABOUT CONGRESS?

There were some wonderful results from our meetings with Congress members. We have engaged at least 8 in Congress to not only support the FATCA Safe Harbor, but to also act as “champions” for the reform in getting others in Congress to support it.

We have detailed notes on each meeting and we will be preparing responses to each that correspond to the particular issues raised. Many wanted to hear accounts of difficulties FATCA has caused voters from their state; fortunately (in a way?), our 2014 survey data is a treasure trove of FATCA horror stories to draw upon. Some wanted to review our materials and see the letter to Treasury and the IRS in support of the Safe Harbor that we and our colleagues at ACA, AARO and

FAWCO/FAUSA are asking Congress to sign on to. And others asked the same question that Treasury asked: if Americans abroad are provided a Safe Harbour from FATCA reporting for accounts in their country of residence, will the banks end the service “lock out”. So we will be briefing them on our work to answer that question.

Please do send through any questions.

DEMOCRATS ABROAD FBAR/FATCA Task Force

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Joe Smallhoover (France)

Katie Solon – International Chair (Germany)