

FBAR/FATCA TASK FORCE – MAY 2015 UPDATE

SPECIAL REPORT

Please note that the Task Force published a [Special Update](#) earlier this week on the publication in the New York Times of a nefarious [Op-Ed](#) suggesting that Democrats Abroad has neglected the interests of Americans abroad in the matter of FATCA. Democrats Abroad has responded with a Letter to the Editor of the New York Times refuting the claim by demonstrating that the Same Country Safe Harbor provision that we and the non-partisan organisations of Americans Abroad are working for have a far greater probability of providing urgent relief from the FATCA burdens than a repeal bill or constitutional challenge. We will notify members of the publication of our Letter to the Editor by the New York Times.

Preliminary findings from research on financial account closures

Many thanks to all who responded to our request for help with the next phase in our FATCA Reform research and advocacy work. We asked that Americans abroad impacted by FATCA-related financial account closures send to the FBAR/FATCA Task Force redacted copies of any bank documents - letters, emails, policy statements, other - that demonstrate a connection between FATCA compliance and a denial of financial service.

We received a lot of fascinating material and are very grateful to those who took the time to submit their stories and documents. This is a summary of the submissions received to the end of April.

FINANCIAL ACCOUNT CLOSURE RESEARCH FINDINGS TO DATE

1. We received more than a hundred emails to FATCA@democratsabroad.org.
2. The vast majority contained anecdotal evidence, but not documentary evidence as requested.
3. Many responses were about the cessation of US-based mutual fund sales to Americans abroad. We collected documents from Fidelity, T Rowe Price, Franklin Templeton, UBS and Aberdeen Asset Management. These service denials are not related to FATCA. [They relate, instead, to the inability of foreign jurisdictions to regulate securities that are not registered in their own jurisdiction.](#)¹ These documents do not progress our evidence-gathering for Treasury.
4. Another large proportion of submissions came from Americans in Mexico upset about the cessation of US check cashing services. Whilst we have not made a study of the reasons behind this policy change, we note that the banks making the change hasten to recommend their wire services as a replacement for check cashing services. This policy change, therefore, does not reflect a wholesale rejection of US customers. We have collected no Mexico bank correspondence that provides evidence linking the cessation of US check-cashing services to FATCA compliance. If you have some please send it to FATCA@democratsabroad.org.

Which brings us to the findings that may be useful for connecting bank lockouts to FATCA. They include:

- UK: Letter from JP Morgan noting cessation of investment management services to US Persons. **May** be related to the further adherence to SEC regulations but the letter references "the complexity of existing and new US tax regulations".

¹ The shrinking options available to Americans abroad seeking exposure to US mutual funds is a grave concern and one that deserves separate consideration.

- France: Letter from ProCapital Security Services (in French: translation needed) which notes the discontinuation of investment management services to Americans and specifically mentions FATCA compliance.
- Italy: Letter from Allianz Bank Financial Advisors. (in Italian: translation needed) which mentions FATCA in the first sentence and resulted, the sender has advised, in the forced closure of a joint checking account.
- Switzerland: Letter from PostFinance notifying the customer of the need to submit, within 20 days, copies of FBARs, a declaration of compliance with US tax filing requirements and a privacy release form, as well as notifying the customer that their account has been locked pending the submissions.

An examination of recent submissions to FATCA@democratsabroad.org bears out something noted by our colleague organisations representing Americans Abroad. We are seeing fewer messages about bank lockouts and service denials. It appears that concerns now centre around the documentation banks are demanding from Americans abroad in order to keep their accounts. (Note the submission about PostFinance in Switzerland.)

We need further evidence for Treasury that foreign financial institutions are locking out US citizens because of the burden of complying with FATCA. We will continue to collect bank correspondence about financial account closures or denials of service that are related to FATCA. Please send redacted copies of bank correspondence to FATCA@democratsabroad.org.

REPORTS OF AMERICANS BEING DENIED MORTGAGES

Recent reports suggest that some banks in some European countries are denying mortgages to American citizens or are refusing to renew mortgages held by Americans. This is a relatively startling new development. **We ask that any American abroad who has tried but failed to secure or renew a mortgage in the last 6 months to get in touch with the FBAR/FATCA Task Force, especially if there is any suspicion that it is related to FATCA compliance.** We would like to collect bank documents that provide insight into the reasons behind this policy shift. Please send any materials related to the denial of mortgage services to FATCA@democratsabroad.org.

US TAX REFORM IS ON THE TABLE IN WASHINGTON DC

We note with regret this week's announcement that US citizenship renunciations hit a record high in the first quarter of 2015. We do not know to what extent precisely these numbers have to do with the enormous burden tax filing and reporting places on Americans living abroad and on the banks that they do business with, but there is surely a correlation of some magnitude. Democrats Abroad finds this appalling and is taking strong action to reform US tax policy. We are actively lobbying Congress to seek both near term and long term solutions because tax reform is on the table in Washington DC. We are working in overdrive to mitigate the impact of current tax laws on Americans abroad.

Thank you for your continued support for the work of the FBAR/FATCA Task force to reduce the burden that FATCA is placing on Americans abroad.

Democratically yours,

FBAR/FATCA Task Force