

Secretary Ann E. Misback
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Docket No. R-1726; RIN 7100-AF97, Threshold for the Requirement To Collect, Retain, and Transmit Information on Funds Transfers and Transmittals of Funds That Begin or End Outside the United States

Dear Secretary Misback,

I would like to comment on this proposed regulation from the perspective of a **United States citizen living abroad who is married to a non-citizen, non-resident foreign spouse**. I believe that the regulation as proposed, particularly concerning the requirement to provide a Social Security Number or EIN for money transfers, could potentially have significant unintended negative consequences for many U.S. citizens abroad, the vast majority of whom do not fall into the targeted groups of the proposed regulation (money launderers, tax evaders, terrorists, etc.), and many of whom are actively promoting American business, financial, diplomatic, and cultural interests abroad. This is a population which the State Department in 2011 estimated to consist of about 6.8 million individuals¹ and by 2016 had risen, according to the Association of Americans Resident Overseas (AARO), to an estimated 8.7 million individuals excluding military personnel.²

For reasons outlined in more depth below, **I strongly support “waiving the requirement that financial institutions obtain a social security number or EIN for funds transfers or transmittals of funds below a certain threshold by non-established customers,”** particularly as it applies to spouses and immediate family members of U.S. citizens, and also as it applies to small, non-profit credit unions. If a waiver turns out to be infeasible, I would strongly urge the inclusion of a spousal exception clause or the addition of another possible identifying number (e.g. passport number) which would not require the often complicated and costly administrative burden and unforeseeable taxation consequences of foreign spouses registering as a U.S. person (often with little to no financial benefit to the government of the United States).

Impact on Private U.S. Citizens Abroad

First, I will speak to my own background and personal interest in the outcome, which is in its broad outline representative of many U.S. citizens abroad whom I know and regularly interact with. I am presently a doctoral candidate in the humanities in Switzerland, where my spouse, a dual citizen of Switzerland and Austria, is employed as a senior researcher. My spouse and I have no connection to the financial services industry apart from holding simple

¹ https://travel.state.gov/content/dam/ca_fact_sheet.pdf

² <https://www.aaro.org/about-aaro/8m-americans-abroad>

(separate) commercial checking and savings accounts. I also maintain a checking and savings account in the United States at a small, non-profit credit union in the rural Midwest where I grew up, which I use when visiting home and for miscellaneous purchases and subscriptions in the United States.

Even in Switzerland, long notorious for its banking secrecy, every American I know and have met here is a law-abiding, tax-compliant, middle- to upper-middle income person. It is well-known among U.S. citizens abroad that the burden of laws and regulations enacted to combat money laundering, terrorism, and tax evasion are often **borne disproportionately by those who were not its intended target**,³ namely law-compliant, non-high-net-worth individuals. Since marrying this year, I, with my modest savings and complete lack of tax expertise, have had to hire a U.S. expatriate tax specialist to work through the intricacies of compliance requirements which will likely net the United States government no money and yet will cost me and my spouse thousands of dollars to prepare in this year alone, and then hundreds of dollars per year going forward indefinitely. The only beneficiaries of this seem to be U.S. tax preparers resident abroad.

This was, of course, not the intention of the laws concerning reporting and compliance, and is not under the scope of this present proposed regulation. But it illustrates the broader problem of **unintended consequences of financial regulation for non-targeted groups**, consequences which could be easily avoided here by a simple change in language or exception to the SSN/EIN requirement as stated above.

As proposed, this rule would seem to have a clear and simple unintended result: under certain circumstances, a foreign spouse could not transfer money to a U.S. spouse in the United States. This is surely not the intention of the regulation. One can imagine a number of fully lawful scenarios in which a foreign spouse or family member would want or even, in emergency cases, *need* to transfer money to an American spouse.

My hope is that the regulatory and financial burden for law-abiding married couples is not needlessly increased in an easily avoidable way.

Broader Public and Foreign Policy Interest

There is also the broader issue of growing discontent on the part of foreign states, including Switzerland, to comply with U.S. financial and tax regulations, an issue which I follow with interest as a private citizen in the Swiss press. From an IRS perspective, the news that Switzerland will, starting in January 2022, allow foreign tax penalties to be written off as business expenses⁴—a measure clearly directed at the United States, esp. in the wake of the

³ “Perceived and Actual Consequences of the Foreign Account Tax Compliance Act: A Survey of Americans Living Abroad.” Proceedings. Annual Conference on Taxation and Minutes of the Annual Meeting of the National Tax Association, vol. 110, 2017, pp. 1–29. JSTOR, www.jstor.org/stable/26794454. Accessed 25 Nov. 2020.

⁴ [https://www.admin.ch/gov/en/start/documentation/media-releases msg-id-81090.html](https://www.admin.ch/gov/en/start/documentation/media-releases/msg-id-81090.html)

Zürcher Kantonalbank settlement⁵—seems to indicate a growing global reluctance to comply with American tax law. Increasing this regulatory burden might only add to this increasingly tense situation, and have negative consequences for U.S. citizens resident abroad, to the point of making the opening of bank accounts nearly impossible, or conversely ceasing international cooperative reporting.

I can personally attest that opening a bank account abroad has become an order of magnitude more difficult in Europe than it was a decade ago.⁶ In Zurich, I was directed with a series of sympathetic sighs to the main branch of UBS Switzerland, the largest bank in Switzerland and one of the few banks willing to take on new American clients. There I was presented with a thick stack of papers to sign, a requirement only large banks with an interest in highly wealthy American clients would have an interest in fulfilling, even though I, as a student, do not even remotely belong to that audience.

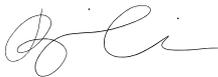
I am not an expert on issues of international taxation, but I can speak to the frustrations of U.S. citizens abroad with the unintended consequences of financial regulation for non-wealthy individuals. An exclusion for U.S. citizens with foreign spouses should not interfere with legitimate and laudable U.S. law enforcement objectives.

To conclude: I strongly support the SSN/EIN waiver, particularly for small, non-profit credit unions and for the spouses and immediate family members of U.S. citizens.

Please feel free to contact me at my Swiss telephone number: + [REDACTED] or via email at [REDACTED]. I would be happy to provide more information or documentation upon request.

I thank you for your time.

Sincerely,



Brian J. Alkire

⁵ <https://www.reuters.com/article/us-zkb-usa-idUSKBN1KY26W>

⁶ <https://www.reuters.com/article/us-banks-expats-idUSKBN0EM16V20140611>