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AARO 2020 Advocacy Survey Results

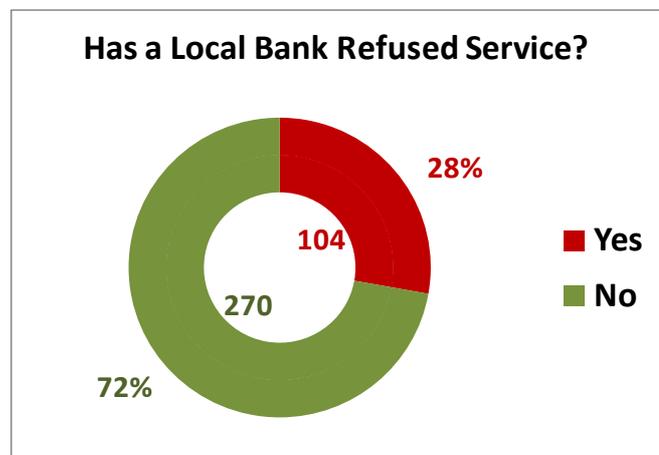
Article 7: Outing the Local Banks

They don't want us! Why not?

In Article No. 4 we addressed why many of you have found it difficult to maintain retail and investment bank accounts in the US, telling you that FATCA was not the villain. In this article we discuss your difficulties keeping bank accounts in your country of residence (“local banks”). In this case, FATCA is indeed the culprit.

Local banks refuse to have us

Many of our survey respondents (28%) have had their local bank refuse their business. A couple of you were “unable to open new accounts with longstanding financial institutions despite having above 800 credit score and decades of good relationship.” Another told us “It’s a fact that lots of banks in Europe won’t have Americans.”



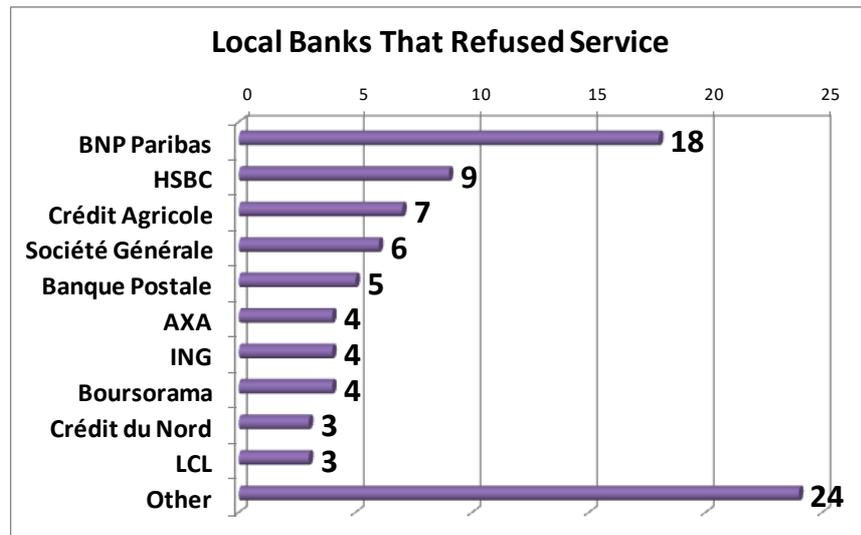
Which banks do this?

In your words, “Numerous.” You gave us the names of 34 banks that have refused your service. Each bank which received at least 3 citations is listed on the chart on the next page, on which we note how many times each institution was cited by survey respondents. “I have been turned down to more banks and brokerages than I can count due to my US citizenship.”

BNP Paribas is, by far, the most cited “worst offender,” with 18 citations (“BNP, was informed they do not accept new clients born in the USA” and “policy of the BNP to refuse American clients due to massive fine they received from the USA”). You may note that many of the banks in our chart are French, which is only because many of

our survey respondents were AARO members who live in France. How many banks would there be on this list if we extrapolated this small sample to the entire world?

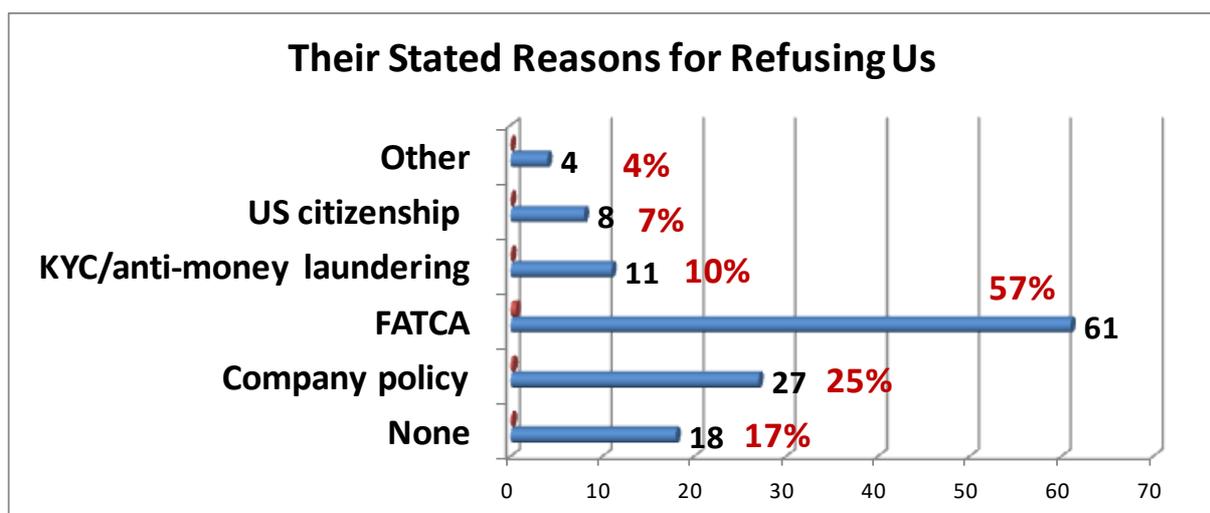
The banks in the “Other” category are: Barclays (Milleis); Bourse Direct; Credit Mutuel; Banque Transatlantique; Deutsche Bank; Bank of America; Amex; Commerzbank; IWBANK; Fineco; ABN Amro; AFER; Hello Bank; Caisse d’Epargne; Banque Populaire; CIC; and “all the online banks.”



One of you has had truly serious difficulty: “Keytrade, BNP, NIBC, Argenta closed the accounts and Me direct, Binck, Fortuneo, Triodos, Axa, ex ABK now De Craemer refused to open an account.”

Why do they say they do it?

As you can see by the chart below, the reason most cited by far is FATCA (57%), although two other reasons cited by banks, “Company policy” (25%) and “US citizenship” (7%), are likely “FATCA in disguise,” so “FATCA” is closer to 89%. One said “no reasons were stated but it was clear the bank did not want Americans.”



Why is this happening?

FATCA is clearly the problem here.

FATCA

The Foreign Account Tax Compliance Act, whose acronym intriguingly evokes the concept of “fat cat,” was enacted in 2010, reportedly for the purpose of detecting the non-US financial accounts of US residents. But FATCA also applies to overseas Americans and to some of their non-American family and business partners, impacting numerous people of modest means who are not fat cats.

Article 4 of this Survey Series addressed the FATCA filing requirements of overseas US citizens and green card holders. Although tedious and redundant, our FATCA filing is trivial as compared to the onerous requirements FATCA imposes on non-US banks. They must search their records for customers suspected of being US persons and report their assets and identities to the US Department of Treasury. Banks look for the following in searching for US persons:

- Whether place of birth is in the US
- Identification as a US citizen or resident
- US residence, mailing address or telephone number, or US "care-of" address
- Standing instructions to pay foreign amounts to a US account
- POA or signatory authority granted to a person with a US address

Banks also must identify and report non-US persons who share a joint account with a US person or who give a US person account signatory authority, as well as any overseas business with a US person having signature authority on its account.

FACTA requires banks to disclose to the US the social security number (SSN) for all their US citizen customers, so banks now ask their US clients to provide their SSNs. However, some US citizens, especially “accidental Americans,” do not have an SSN.

Why does the US do this? It wants our SSNs so it can track us to ensure that we comply with our US tax and reporting obligations.

Banks have already been forced to revise their information systems to comply, at great cost. But banks also incur significant ongoing compliance costs (running costs, information gathering and reporting) and risk large penalties for failure to comply. As you say, “*Generally burdensome reporting requirements of US government required of foreign banks with US depositors.*” Even more, US entities making payments to non-compliant foreign banks must withhold 30% on the amount of the transaction. In essence, a non-compliant bank would be unable to operate.

Because of FATCA, overseas Americans bring complications to many local banks, who choose to avoid the issue by refusing to work with American clients because the costs of compliance and potential penalties for mistakes are not worth the effort. Further, those that would otherwise accept us may choose to close accounts of US citizens who do not provide an SSN. You correctly say they do “*not accept [US] citizens since fatca.*”

Anti-money laundering regulations

A small minority of survey respondents (10%) told us that their local banks cited anti-money regulations as a reason for refusing them. This is likely due to tightened regulations by your country of residence, and not due to a specific bias against Americans. But overseas Americans, being binational, are more likely than the usual local residents to make international transfers and to have bank accounts and second addresses outside the country of residence. So, local bank regulators may possibly choose to refuse their business out of an abundance of caution or harass them away: *“The bank asked for docs to prove my identity, employment, US bank info, tax info etc every 6 months to the point of harassment. I gave them everything ... and was told it wasn't enough. I literally withheld nothing.”*

There are solutions for some...

High wealth individuals

Some banks may accept US expats as customers if they have high account balances which would offset risks from the FATCA reporting requirements (\$500,000 in assets being cited by a bank in a recent survey).

Also, some global banking brands offer international banking services allowing customers to open and operate accounts in different currencies. However, these accounts often require high initial deposits, have relatively high fees and, therefore, are useful only for high wealth individuals. Ironically, this solution is only available to those the “Fatcat” law was intended to target, while the less fortunate languish.

European residents

Overseas Americans resident in an EU country are guaranteed access to the banking system because the European Payment Accounts Directive (PAD) gives EU residents the right, on a non-discriminatory basis, to an account with basic features. EU member states were required to implement PAD by September 2016.

In France, for example, the Banque de France assures French residents (regardless of nationality) and French nationals living outside France with basic banking services if they had otherwise been refused a bank account, although one does not necessarily get a bank of one's choice. These services include basic checking, deposits, withdrawals, transfers, and a debit card.

In Great Britain, the Payment Accounts Regulations transposed PAD into UK law in 2015, requiring the 9 largest UK account providers to offer basic bank accounts.

This is not a perfect solution as these basic accounts are very limited. Further, to have this account, you must provide your SSN to the bank (as mentioned above), which is

a problem for many. We told you in Article 2 of this Survey Series that 67% of respondents were concerned that disclosing their SSN to their local bank could trigger identity theft at the bank.

...But inadequate solutions for accidental Americans

“Accidental Americans” generally do not have SSNs and often find it difficult to impossible to procure one. An accidental American is (generally) someone born on US territory, even if he/she leaves as an infant or young child, or someone born abroad to a US citizen parent(s), even if he/she never enters the US. Many have tenuous relationships with the US and some do not even realize that they are US citizens until a problem arises due to this deemed nationality.

Persons born in the US since 1986 were issued an SSN at birth. For all the other accidental Americans, the process to apply for an SSN is heavy, requiring one to travel to the nearest US embassy with a Federal Benefits Unit and provide many documents (including official birth certificate, valid US passport or other proof of US citizenship, proof of identity, and other documents if the name on any of these documents does not match). If one does not have a birth certificate or US passport (or other proof of US citizenship), he/she must get one prior to application, which is what makes the SSN process so difficult.

Therefore, the European (PAD) and UK bank account solution is rarely available to accidental Americans born before 1986.

AARO's advocacy

In conjunction with wider reform to the tax code, AARO would like to replace the existing FATCA regime with the Common Reporting Standard, now widely used internationally. Accounts located in overseas Americans' countries of residence should not be considered as “foreign” accounts and should be exempted from all reporting. To assist accidental Americans living in Europe and the UK, AARO has proposed the issuance of individual tax identification numbers to non-resident US citizens on demand, which the IRS already provides to non-resident aliens.

The Association of Americans Resident Overseas (AARO) researches issues that significantly affect the lives of overseas Americans and keeps its members informed on these issues. Founded in 1973 and headquartered in Paris, AARO is an international, non-partisan association with members in 46 countries. For more information please email us at contact@aaro.org.

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