

**COMMENTS CONCERNING DOCKET NUMBER FINCEN-2020-0013,
AND OMB CONTROL NUMBER 1506-0009:**

I am writing concerning the proposed renewal, without change, of existing information collection requirements concerning reports of foreign financial accounts and FinCEN Report 114, Report of Foreign Bank and Financial Accounts (FBAR).

In the General Request for Comments, it is stated that among other things, comments are invited on: (i) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (ii) the accuracy of the agency's estimate of the burden of the collection of information; and ... (iv) ways to minimize the burden of the collection of information on respondents.

I will first and principally address the accuracy of the agency's estimate of the burden of the collection of information. Then I will provide some additional comments concerning whether the collection of information is truly necessary for the proper performance of agency functions, and concerning an evident and logical way to minimize the burden of the collection of information.

The accuracy of the agency's estimate of the burden of the collection of information, specifically for US citizens residing abroad

It is stated that "FinCEN estimates that the approximate FBAR reporting burden will vary depending on the number of reportable foreign financial accounts, and will range from approximately 20 minutes to 90 minutes. As a result, FinCEN estimates the average reporting burden per FBAR filer will be 55 minutes." Further it is stated that "FinCEN estimates it would take a filer five minutes to save an electronic copy of the FBAR." And further, it is stated that "FinCEN estimates the total annual reporting and recordkeeping burden per FBAR filer will be one hour (55 minutes for FBAR reporting and five minutes for FBAR recordkeeping)."

As I read the above estimates, I was rather shocked and quite incredulous. I am a US citizen living in a foreign country, and have many years of first-hand experience in filing FBAR reports. The above estimates significantly underestimate and misrepresent the actual amount of time required for filers in a similar situation as myself. In my experience, the amount of time required for simply gathering the required data for "simple" accounts is approximately one hour *for each account*. For gathering the data for "more difficult" account situations, it can take anywhere from two to four hours *for each account*.

The reasons for the amount of time which is required for each account are numerous. One must obtain and save every available statement and available bank printout. Some banks do not provide printouts going back for a full year, so in those situations it is necessary to remember to periodically gather and save the data throughout the year. Once the year has ended, one must comb through those statements and printouts looking for the maximum account value for the

year. For some accounts, this process is relatively simple, but for other accounts it can become quite complex and time-consuming. For example, the monthly statements for my prepaid credit card show all the deposits and their date in one section of the statement, and all the withdrawals and their date in another section. There is no running balance shown. Thus, for that account, it is necessary to merge all that data into a separate tabulation (I use an Excel table) in order to track the running balance and locate the maximum balance. Another example arises when one has statements which show chronological data, yet do not show the running balance except after every five or six entries. In those cases, if there have been deposits, it is necessary to individually calculate and insert a notation about the running balance after each of those transactions. (It may also be of interest that some years ago, I had several bank booklets that showed a running balance after each transaction. When I subsequently asked the bank for a single full-year printout, what they provided was organized such that all the deposits for each day were reflected before any of the withdrawals for that day. This draws attention to the very real possibility of a foreign bank reporting a much larger maximum balance than was reported very honestly and carefully by an FBAR filer.)

It is also necessary to consider the number of accounts which a person typically holds. A typical US citizen residing in a foreign country lives, functions, does banking, does business, and transacts, all in that foreign country. That person is very likely to have checking accounts, savings accounts, lines of credit, prepaid credit cards, certificates of deposit, an investment account, a retirement account, etc., etc. And at times, for various reasons one changes banks or advisors, moving certain accounts to another institution, resulting in a year where there are even more accounts to report. As well, consider how parents often open bank accounts for each of their minor children, to encourage them to learn to manage money, and as well open separate college savings accounts. These accounts are perhaps in the name of the child, but with the parents holding signatory authority. It is entirely possible for a typical FBAR filer living in a foreign country to have 15 to 20 accounts to report in any given year, all of which must be carefully tracked and reported.

I will present some data to help clarify the amount of time required for me to do my FBAR report every year. The process I follow when I do FBARS is typically as follows: I review the instructions for the FBAR, to ensure that I am aware of any changes to the reporting requirements. (For this estimate, say 20 minutes.) I consult the website of the Bureau of the Fiscal Service to obtain the exchange rate for 31 December. (For this estimate, say 10 minutes.) I update a list of my accounts in an Excel file which I maintain to ensure that I do not inadvertently forget an account. I carry forward this file from year to year, as most of the accounts continue from year to year. I make note of accounts which were opened or closed during the year, adding or changing information on addresses and account numbers. (For this estimate, say 30 minutes.) I then comb through the statements for each account and find the maximum balance. As stated previously, this can take anywhere from one to four hours for each account. For purposes of this estimate, I will simply say two hours per account. Further I will say that I have just 10 accounts to report. (So, for this estimate, say 20 hours.) I then enter the applicable maximum balances and the required Dec 31 exchange rate into my Excel table, and have Excel compute the maximum balances in US dollars. (For this estimate say 20

minutes.) I then enter all the account information and the USD values onto the FBAR form. (For this estimate, say 60 minutes.) I then proof the form carefully to be sure that I have not transposed a number, as the penalties for mistakes or omissions are extraordinarily great. (For this estimate, say 30 minutes.) I then transmit electronically, and save a copy of the FBAR as filed. (For this estimate, say 5 minutes.) I then must also save a copy of the confirmation emails I receive, in order to record pertinent confirmation numbers, which also are required to be maintained. (For this estimate, say 5 minutes.) I then carefully save all my supporting statements, printouts, Excel files, and computations, in case there arise any subsequent questions or problems concerning my FBAR. Specifically, one must retain these records for a period of five years and make the records available for inspection if required. (For this estimate, say 60 minutes.)

Upon adding all the time required for each of the above steps (20min + 10min + 30min + 20hr + 20min + 60min + 30min + 5min + 5min + 60min) one can see that the total is 24 hours. This represents my best estimate for a filer similar to myself, with the possibility of significant variations in either direction, depending on individual circumstances. I hope it is clear that the estimate of the time required for this yearly exercise has been grossly underestimated. I emphasize that for many US citizens residing abroad, the yearly FBAR report represents a significant, excessive drain of time and effort.

Whether the collection of this information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility

In the supplementary information concerning the statutory and regulatory provisions related to the FinCEN reports, mention is made of the *Bank Secrecy Act* and the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001*, and *intelligence and counter-intelligence activities to protect against international terrorism*, and *anti-money laundering programs*, etc., etc., etc. All these things, terrorism, intelligence, counter-intelligence, money-laundering, and the like are completely foreign to the typical US citizen living abroad. Yet these concerns are why we must file these FBAR reports to FinCEN, the *Financial Crimes Enforcement Network*. (It is well known that many US citizens residing abroad feel an element of embarrassment and shame, to be treated as if they are committing *financial crimes* simply because they hold bank accounts in the country where they reside.) I and many other US citizens residing abroad, truly question whether all the significant effort required to file our FBARS has ever resulted in any commensurate benefits in combatting terrorism or money-laundering. It seems rather unlikely.

Ways to minimize the burden of the collection of information on respondents

US citizens living in a foreign country must maintain financial accounts in that country because that is where they live, function, and raise their families. It would be entirely reasonable and logical to prescribe a same-country exemption for US citizens abroad, such that the accounts they maintain in the country where they live are not subject to the FBAR requirements.