

Author Full Name : Anonymous**Received Date :** 04/29/2024 03:45 PM**Comments Received :**

Dear Office of Management and Budget,

I would like to comment on FinCEN's information collection request 202403-1506-001, OMB control number 1506-0009, also known as FBAR.

As an American citizen living abroad for many years, I am subject to an alphabet soup of tax and financial disclosure laws that are almost unheard of among US residents, including the requirement to report my local financial accounts to the Financial Crimes Enforcement Network (FinCEN) on FinCEN Form 114 (FBAR). From my perspective, these accounts are local and necessary for day-to-day life; they are not "offshore". Given the lack of indicia of suspicious behavior associated with maintaining financial accounts in a jurisdiction where one resides and pays taxes, it is questionable whether such a broad information collection is necessary, has utility and is a reasonable burden on non-resident Americans.

Citizenship alone should not provide a sufficient nexus for triggering the FBAR filing requirement for non-US financial accounts exceeding \$10,000, especially considering the expansion of US citizenship post-Afroyim v. Rusk and Vance v. Terrazas. Additionally, inflation is simultaneously increasing the collection scope and driving up the civil penalties associated with non-compliance. Adding insult to injury, the penalty mitigation guidelines for non-willful FBAR violations have been eliminated after Bittner v. US which raises the stakes. I believe we are approaching the tipping point on this information collection and that Treasury must engage its regulatory powers to seriously reform FBAR.

With regards to the utility of the form, the Agency has never provided any real insight into how FBARs are used to combat financial crime. Several comments submitted to this ICR have pointed out the lack of transparency from FinCEN in demonstrating the usefulness of FBAR data. Many are beginning to wonder if FBAR's only utility is to dubiously extract civil penalties from individuals who fail to file a FBAR.

With regards to the stress and stigma associated with FBAR, it is inherently stigmatizing and stressful to be forced under threat of civil penalties to lay bare one's entire financial life on a yearly basis to the US financial intelligence unit merely due to citizenship links. It's an experience that would be exceptionally rare for US residents and likely require some reasonable suspicion of wrongdoing. Certainly, this is not a reasonable burden on Americans abroad for a reporting requirement that has questionable utility for the government.

Given the Agency's statutory authority under title 31 section 5314(b), I believe it is high time for Treasury to narrow the reporting requirements to that which is strictly necessary to 1) minimize the burdens (including minimizing exposure to life-altering civil penalties) and 2) maximize the utility of the data FinCEN collects in order to serve the legitimate public interest in fighting financial crime.

To sum it up, I do not agree that this information collection should be renewed without change. Please, Office of Management and Budget, don't rubber stamp this one. Pass the ball back to Treasury until it can fully explain to Americans abroad why this dragnet collection is necessary, whether the data is utilized effectively, and if it is appropriate to adjust the FBAR regulations.