THE ASSOCIATION OF AMERICANS RESIDENT OVERSEAS

Established 1973

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Committee on Health, Education, Labor, and Pensions
United States Senate
430 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Enhancing American Expats' Access to Savings Vehicles and Retirement Plans

Dear Members of the Senate Committee on Health, Education, Labor, and Pensions

The Association of Americans Resident Overseas (AARO) is an international, non-partisan association with members in 46 countries, and who vote in 40 States. AARO strives to ensure that Congress takes into account the contributions, needs and issues of Americans abroad, and works closely with other international organizations to achieve common goals.

Exclusion from the financial system has become an increasingly serious problem facing an estimated 9 million Americans residing overseas. The most significant problem affecting many people is the increasing difficulty accessing and retaining savings vehicles and retirement plans.

This has personally affected our members, who have told us of their problems with retirement accounts and investment vehicles in a Survey we conducted in November 2020:

- More than ¾ (76%) of our members have found complex reporting of non-US investments and retirement plans and two thirds (67%) have lost tax advantages or suffered penalizing taxation on foreign investments and retirement accounts. A member told us: "We have lost a lot of potential for retirement savings."

- Another member living overseas said: "I have been turned down to more banks and brokerages than I can count due to my US citizenship."

- Almost half of our respondents (45%) who have tried to open a US investment account were refused. 41% of those who did manage to have a brokerage account found it, however, either liquidated or restricted.

- "We were poison" one said.

- Almost ¼ of our survey respondents (21%) have told us that the institution holding their US retirement accounts had liquidated or threatened to liquidate the account or placed restrictions on the account.

The Rise and Shine Act (S. 4353), which has recently been unanimously approved by your Committee, and related legislation now moving through Congress offer an unusually promising opportunity to improve the situation. These bills (i.e. the EARN Act, being finalised in the Senate Finance Committee, and the SECURE Act 2.0, which has already passed in the House, as well as the RISE and SHINE Act) all aim to expand coverage of employer-sponsored plans and increase retirement savings, as well as to simplify and clarify rules.

With suitable modification these bills offer attractive vehicles for reducing the financial exclusion that expats have faced. There has been strong bipartisan support. Modifications needed to extend effective coverage to expats are fully within their spirit and intention. If the Finance Committee's and the HELP Committee's bills could be modified appropriately, there should be no problems of reconciliation with the House's SECURE 2.0.

AARO asks for your assistance in ensuring that Congress grasps this opportunity. Three main issues need to be addressed in the bills:

1. <u>Expats need access to retirement plans where they live and work.</u> The issues here are summarized well by the GAO in "Workplace Retirement Plans" [GAO-18-19], pp.12-14. The US tax code needs to be modified to end the punitive treatment of savings vehicles and retirement plans outside the United States, i.e., essentially anything requiring Forms 8621 (PFICs) or 3520 (foreign trusts). Extending the Foreign Earned Income Exclusion regime (along the lines of HR. 6057, i.e., the Beyer bill) to exclude foreign retirement plans and long-term savings vehicles from US taxation would be one good approach. This would leave the plans to be governed and taxed by host country law. The need for this was expressed by our members in our Survey: For example:

    o One of our members told us "I cannot invest in mutual funds in France because too hard to report."

    o It is practically impossible for our members to find investments and retirement savings plans that are compatible with both the US system and the system in the country of residence. Other members have said: "We have lost a lot of potential for retirement savings" and "They did not accept the US residence address I provided and determined I could not use their services because my main residence was France."

    o For those who do have non-US retirement accounts, 68% find the US reporting either complex or very complex.

    o Citizen-based taxation (CBT) has severely limited overseas Americans' investment and retirement opportunities: For one, "[m]y investment options are limited because of CBT" and, for another," CBT "creates other problems like limiting available banking and investment opportunities."

2. <u>Expat savings and retirement plans established in the US before expatriation are difficult to retain.</u> Middle-aged and elderly Americans moving abroad have frequently faced account closure, asset liquidation, restrictions on activity or excessive fees relating to US retirement plans (including IRAs) and accumulated savings held in them. Changes in residence are normal elements of a person's life cycle and should not threaten the whole of an investor's life savings. The SECURE Act's measures to expand coverage of retirement plans need to be supplemented with measures which, absent probable cause relating to illicit activity, protect against liquidation or abusive restrictions. Again, our members need your action:

    o One said: The bank "threw me out in 2018 and nobody would take up my investment account elsewhere."

- One of our members "had to liquidate retirement accounts inherited from my mother because of my foreign address."

- Another said "Fidelity client since 1978. Have US address, but when they found out I had a foreign address as well, they massively restricted my account which meant I had to move my IRA elsewhere."

- Our respondents named ten US institutions that liquidated or threatened to liquidate their account, or placed restrictions on their account, including the most popular and well-known institutions, such as Fidelity (Fidelity "made me leave" and "account frozen"), Merrill Lynch/Bank of America, Vanguard, Morgan Stanley/Smith Barney, Charles Schwab, T. Rowe Price, TIAA-CREF, Prudential, Wells Fargo and Ameritrade.

3. <u>Many expats need access to US-based savings vehicles to accumulate retirement assets</u>. Younger expats and others American by birth but who have not lived in the United States have few options for retirement planning because punitive US tax treatment effectively prohibits saving accumulation outside the US. US-based options are needed, but anti-money laundering policy deems expats high risk, hence unattractive as customers to US-based asset managers. Furthermore, young expats usually have few assets and are of little interest to the few fee-based US asset managers who accept better-off expats as clients. Elements of the SECURE ACT designed to expand coverage of various plans should be extended to assure expat access to at least basic savings vehicles such as US mutual funds. Many of our members told us that not having a US address essentially eliminated this option. They said:

- "All companies that I contacted refused to open an account from me."

- "Not just US address but actual US residence."

- "Need demonstrated US address 183 days a year."

US legislation and practices in tax and banking make it increasingly difficult for Americans who live and/or work overseas to save for retirement in U.S. and non-US savings vehicles and retirement accounts. AARO urges the Committee to use this opportunity to correct the injustice to overseas Americans saving for retirement.

Thank you for your attention. AARO would be happy to answer any questions or to elaborate on the points set forth in this letter, if need be.

Sincerely yours,

Doris Speer

Doris Lynn Speer
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