



**Florida International Bankers Association**

**Submission for the Record  
To the House Committee on Financial Services  
Subcommittee on Financial Institutions and Consumer Credit**

**Hearing on Proposed Regulations to Require Reporting of Nonresident Alien Deposit  
Interest Income**

**October 27, 2011**

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The Florida International Bankers Association (“FIBA”) appreciates the opportunity to submit a statement for the record supporting H.R. 2568 and its Senate counterpart bill, S. 1506. These bills would prevent the Treasury Department/IRS from finalizing proposed regulations (REG-146097-09) (the “Proposed Regulations”) that would expand U.S. bank reporting requirements with respect to interest on deposits paid to a nonresident alien (“NRA”).

FIBA represents more than 70 financial institutions from 18 countries, the vast majority of which are comprised of either the international offices of banks headquartered in the United States or foreign banks which maintain U.S. branches, U.S. agencies or U.S. representative offices. The geographic market of both U.S. and foreign bank FIBA members is Latin America, and the principal services of our members are (i) U.S.-based wealth management/private banking services for non-U.S. persons and (ii) trade finance and supporting activities.

**Proposed Regulations**

Similar to regulations proposed in 2001 (REG 126100-00, 66 Fed. Reg. 3925-28) that were subsequently withdrawn, the Proposed Regulations would require information returns for interest paid to NRAs from deposits in U.S. financial institutions, regardless of the NRA depositor’s country of residence.

FIBA is concerned that the Proposed Regulations would have a dramatic adverse impact on Florida banks (as well as banks throughout the United States). If finalized, the Proposed Regulations would result in (i) potential flight of non-taxable capital from NRAs in the United States, (ii) weakened bank liquidity levels and diminished bank lending capacity, (iii) a loss of jobs in the U.S. banking industry, and (iv) significant compliance burdens on U.S. banks, with no return on this investment.

## Harm to U.S. banks and economy

*Flight of capital.* FIBA is concerned that if the Proposed Regulations are finalized, flight of capital from the United States but especially from Florida would occur. The global market for NRA deposits is highly competitive, and subtle differences in regulatory regimes among countries directly affect the flow of NRA deposits in and out of financial institutions in these countries. Other countries that compete with the United States for these deposits often tout the relative advantages of depositing funds in their country. However, the political and financial instability of Latin and Central American countries have often times resulted in (i) U.S. dollar deposits being nationalized, (ii) forced conversions to local currency at unreasonable rates, or (iii) modifications to exchange controls with little or no warning or reason. Additionally, many of the countries lack adequate confidentiality rules, and those countries with confidentiality rules are either poorly enforced or susceptible to local corruption (and unauthorized leaks). Because these same countries often have significant criminal activity, the lack of confidentiality can lead to devastating results such as extortions, kidnapping and possible assassination of high net-worth individuals. Disclosure of confidential financial information represents a real threat and is an important consideration in where to deposit funds.

NRAs maintain deposits in the United States and particularly in Florida for safety, personal and political reasons, many of which are mentioned above. Customers of FIBA member banks deposit their funds in the United States because of the longstanding political and regulatory stability of the United States. However, irrespective of the IRS' vigilance in the safekeeping of such information, the mere collection of this information will be sufficient to encourage NRAs to move this highly mobile capital to other stable jurisdictions that will protect their privacy and security.

*Weakened U.S. banks.* The flight of capital has cascading implications – primarily, weakened bank liquidity levels and diminished lending capacity. Each dollar of NRA deposits multiplies the banks' lending capacity. NRA deposits are particularly valuable because they tend to be highly stable—often certificates of deposit that roll over upon maturity, year after year. If the Proposed Regulations are finalized, a sudden withdrawal of NRA deposits might occur, causing some U.S., and especially Florida, banks to experience a lack of liquidity (as a majority of the assets are in the form of illiquid loans). Beyond the immediate problem of liquidity, withdrawal of NRA deposits will cause many banks to shrink because they will not have as many deposits to loan against. These deposits will be highly affected, causing irreparable harm to the financial stability and liquidity of local and regional banks, at a time when many banks are struggling to regain profitability.

*Loss of jobs.* Weakened bank liquidity levels and diminished lending capacity will lead to a loss of jobs in the U.S. banking industry. The Proposed Regulations threaten not only the economic health of FIBA members, but also the regional economy. For example, growth in Florida international banking industry has been an important contributing factor to South Florida economic growth. With its proximity to the Caribbean and Latin America and its multi-lingual population, South Florida experienced a dramatic increase in international trade beginning in the

1970s. The loss of NRA deposits will not only cause a loss of an important source of financing, but would also inhibit FIBA members from investing in local communities. Although NRA deposits come from abroad, many FIBA members currently use these deposits in their local lending programs or loan the NRA funds to domestic banks. The Proposed Regulations would eliminate an important source of funding to support the growth of the economy.

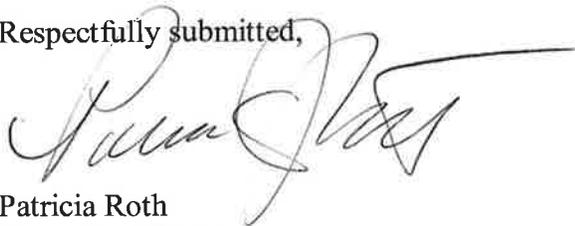
*Compliance burden.* FIBA is also concerned that the Proposed Regulations, if finalized, would cause a significant compliance burden on U.S. banks, with no corresponding benefit in return, either to the U.S. government or the banks. Developing and implementing the required information reporting systems of the Proposed Regulations would require large investments in time, resources, and training of bank employees. Initially, banks would have to purchase or enhance their current software to produce Forms 1042-S and train their employees to use the software. Then, the banks would have to pull their Form W-8BEN for each NRA depositor to obtain the information necessary to complete the Forms 1042-S and determine the depositor to whom the Forms 1042-S should be sent. Such information would need to be entered into the software, and internal controls would need to be implemented to ensure the accuracy of the information contained in Forms 1042-S. Even after the new system is established, banks would face significant ongoing compliance costs from monitoring and updating the system and preparing and mailing the Forms 1042-S. Many FIBA member banks are small community banks for which the additional burdens of the Proposed Regulations would be material.

### Conclusion

In summary, the Proposed Regulations can cause potential and substantial economic harm on NRA deposits in Florida and other U.S. international banking centers. For these reasons, FIBA strongly supports H.R. 2568 and S. 1506, and hopes that the Congress will expedite consideration of this legislation before the Proposed Regulations are finalized.

On behalf of FIBA, thank you again for the opportunity to submit comments on this very important issue.

Respectfully submitted,



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Florida International Bankers Association (FIBA), Inc.