**Executive Summary**

- Overview of the restrictions and historical reasons for account closures of Americans abroad by both U.S. and Foreign financial firms.

**INTRODUCTION: BANKING RESTRICTIONS PRESENT NEW PROBLEM FOR AMERICANS ABROAD**

Americans abroad are being informed by U.S. banks and brokerage firms with increasing frequency that their accounts have been restricted or even closed due to their status as non-U.S. residents. These actions are being taken by a broad range of U.S. financial institutions and notably include Morgan Stanley, Fidelity, Merrill Lynch, Ameriprise, TIAA, Edward Jones, Wells Fargo, USAA, UBS and many other institutions. This follows on the heels of widespread action by non-U.S. financial institutions to revoke and refuse services to expat Americans as a result of the Foreign Account Tax Compliance Act (FATCA). Consequently, Americans abroad find it increasingly difficult to locate banking and invest-
ment services both in the U.S. and abroad. Even where they remain welcome as clients, the range of services and product availability is typically restricted. This Thun Research article briefly discusses reasons behind brokerage account restrictions and proposes solutions for frustrated U.S. expat investors.

**Why are Expat Brokerage Accounts Being Closed?**

The global financial regulatory landscape is dramatically changing. FATCA imposes significant new compliance burdens on non-U.S. financial institutions with U.S. clients. As a result, many non-U.S. financial institutions now simply refuse to service U.S. persons. Unfortunately, U.S. financial institutions are following suit due to FATCA and other considerations.

Among U.S. financial institutions, account restrictions differ between firms. Some firms are closing all accounts for non-U.S. residents while other firms are only restricting services available to Americans not resident in the U.S. In other cases, firms require very high minimum account values for non-U.S residents who wish to remain clients. Bans on purchasing U.S. mutual funds by non-residents, including Americans citizens, are now the norm. These new restrictions affect bank accounts, brokerage accounts, and retirement accounts (IRAs and 401ks).

Many commentators attribute these actions to FATCA and increased offshore tax enforcement efforts. However, there are numerous contributing factors in addition to FATCA. Enhanced Treasury Department enforcement of existing anti-money laundering regulations and know-your-client rules, evolving interpretation of the 2003 Patriot Act, and new European regulation of cross-border investments (e.g. EU MiFID II) all play a role. These factors contribute to a heightened compliance burden faced by financial institutions providing individual investment services across borders. Many U.S. institutions are following the lead of foreign banks in limiting perceived compliance and legal risk by simply refusing to provide individual financial services across borders.

**Why are non-U.S. Residents Restricted from Owning U.S. Mutual Funds?**

As widely reported, many U.S. mutual fund companies have introduced policies preventing their funds from being purchased by non-U.S. residents, including Americans abroad. Many expats are surprised to learn that rules barring the sale of most U.S. registered mutual funds to non-residents are decades old. Previously, these long-standing limitations on ownership were seldom enforced. Recently, however, mutual fund companies modified due diligence procedures to compel more rigorous compliance with existing rules. Stepped-up enforcement of existing rules reflects the new environment of enhanced cross-border compliance and regulation among banks and brokerage firms.

Mutual fund distribution agreements typically
mandate that mutual fund owners reside domestically in the United States for two main reasons. First, U.S. fund groups are not allowed to solicit overseas business for their SEC-registered funds, even from U.S. expatriates. Offering shares of mutual funds to non-domestic clients could potentially violate the laws of any country in which an investor or prospective investor in a fund is resident or domiciled. Second, mutual funds may make tax treaty claims on their holdings, which require funds to certify all shareholders are resident in the United States.

**HOW CAN AMERICANS LIVING ABROAD INVEST?**

A select number of U.S. brokers are still interested and willing to work with Americans abroad. This is especially true when they are guided by a specialized independent financial advisor who can conduct additional due diligence on the client.

While U.S. mutual funds may no longer be available for Americans abroad, Exchange Traded Funds (ETFs) are generally not restricted for sale to non-U.S. residents (with the exception of EU residents, discussed below). A well designed ETF portfolio provides equal or superior diversification than traditional mutual funds. Furthermore, in addition to being exempt from some regulatory burdens, ETFs are generally more tax and cost efficient than traditional mutual funds. Therefore, lack of access to mutual funds should no longer be seen as a major impediment to successful expat investing.

The 2018 EU Markets in Financial Instruments Directive (MiFID II) restricted the distribution of U.S.-registered funds, including ETFs, in the EU. Most U.S. brokers still working with clients in the EU have responded by prohibiting them from purchasing U.S. funds, including ETFs. However, some U.S. brokers continue to allow the distribution of ETFs to EU residents where the funds are managed by a U.S. Registered Investment Advisor.

Non-residents also have the option of building portfolios by purchasing individual stocks and bonds. Although this approach entails higher costs and limits an investor’s ability to achieve maximally efficient diversification, it is the approach least burdened by cross-border regulation.
Finally, it should also be noted that in many cases the best solution for Americans abroad is simply to keep their address of record in the U.S. Any American living abroad, even for an extended period, is well within their rights to use a U.S. address for the sake of opening accounts and receiving mail. In this case, there will be no restrictions on the account.

**CONCLUSION**

The investing landscape for Americans abroad is becoming increasingly complex. New brokerage account and mutual fund restrictions raise high hurdles for Americans abroad to invest wisely and tax efficiently. Furthermore, implementing sound investment strategies without being ensnared in a cross-border tax trap has never been harder. However, solutions do exist. Savvy American investors should keep their wealth invested globally, but through cost effective ETFs held at those U.S. financial institutions that continue to welcome them.