



December 1st, 2022

The Honorable **Janet L. Yellen** Secretary
Department of the Treasury
1500 Pennsylvania Avenue, N.W. Washington, D.C. 20220
(202) 622-1100
correspondence@treasury.gov
Office of the Attorney General State of West Virginia

VIA EMAIL & U.S. MAIL

Dear Secretary Yellen,

We are writing to you as members of the board of "The 1841 Foundation", to express our concerns that the United States might be sharing the private financials of individuals with bank deposits in the country with the authorities in Argentina. As you are aware, Argentina is a country that has consistently violated the privacy rights of many of its citizens, by consistently leaking to the press private financial and tax information, and whose current government lacks, in our opinion, the integrity required to be a trusted partner in handling sensitive information affecting the privacy and property of its citizens in the United States.

It must be stated that "The 1841 Foundation" understands and respects the fact that governments need to have access to certain information concerning their taxpayers to collect taxes. We also understand that financial crime and money laundering must be combated aggressively.

But, at the same time, it is very clear to us that individuals also have a right to privacy and personal safety and when there is a tension between a human right and the interest of a government, the human right must prevail. This means that authorities engaged in fighting tax evasion, financial crimes, and money laundering, should also try to avoid stepping on an individual's right to privacy wherever possible.

The Board at "The 1841 Foundation", has always considered that there are many options to conduct such inquiries and that this will become even more of an imperative with the consolidation of new technologies such as the blockchain.

In our opinion, the balance between privacy and transparency is an important one and a topic that, contrary to what the OECD has enacted over the past two decades, the United States has always defended and promoted. The fact that the United States has been fighting tax evasion and money laundering through its own domestic legal instruments (such as FATCA and the recently enacted U.S. Corporate Transparency Act) instead of participating in the Common Reporting Standard ("CRS") is sufficient proof of that.,

We strongly believe it is time for the pendulum to go back to equilibrium.

Rewarding countries that offer a high degree of rule of law and/or protect the privacy of certain information, by allowing them to access financial information on their taxpayers from countries under CRS or FATCA, is a good way to align interests. Having protected private registers or information of beneficial owners, such as the BVI does or the United States will be doing shortly following the approval of the above-mentioned U.S. Corporate Transparency Act, is also good practice.

On the other hand, forcing countries to have public registers of beneficial owners or to exchange information with jurisdictions that do not have systems in place or even the intention to protect sensitive information about their citizens, puts in danger basic rights of those countries' citizens; especially when those countries are high crime countries and/or countries with a minimal rule of law in effect.

This is the case that prompted this letter.

The authorities in Argentina have once again, for the third time in a very short time in 2022, allowed private financial and tax information on their taxpayers to be filtered to the press, including information submitted in good faith by other OECD countries via the CRS mechanism. This time, the leak was in the context of an extraordinary additional wealth tax to the rich in a country that already taxes wealth. In fact, in 2021, Argentina has become the first country in the world to tax personal wealth twice!

The other two examples occurred in the context of tax amnesty offered by Mauricio Macri's administration in 2016 and, a couple of years earlier, when the head of the tax authority at that time (Ricardo Echegaray) personally caused the so-called Falciani's list, which included private information of clients of HSBC, to be leaked.

Even more important than all of the above, the Department of the Treasury should be reminded that in 2015 FinCEN suspended its MOU with Argentina for the exchange of financial intelligence due to the unauthorized disclosures of information by its Argentine counterpart to the press involving Prosecutor Alberto Nisman, who had been murdered earlier that year under strange and still not clarified circumstances after accusing then President Cristina Kirchner of treason for entering an illegal deal with the Iranian regime. In addition to this, it is noteworthy that the current director of the Argentinean Tax Administration (Carlos Castagnetto) is a divisive political activist rather than a technical bureaucrat and that any private information of opponents to the current government under his control is at great risk. This can be easily confirmed by looking at his social media profiles, especially his Twitter account (@CastagnetoC).

Another important recent development to take into consideration is an impending vote. Local Congress will vote (and will probably pass) an amendment to the local regulations to fight money laundering and terrorism financing. This draft legislation provides, on its articles 26 to 29, the creation of a Registry of Beneficial Owners of entities not within the UIF (which is the local FinCEN) but within the local Tax Administration. Moreover, this type of Registry, recently declared invalid by the Court of Justice of the European Union, will be accessible by organizations that have very little, if anything, to do with this fight, weakening the fiscal secrecy. Examples of this are the “*Superintendencia de Seguros*” (Superintendency of Insurance) and, more importantly, the “*Instituto Nacional de Asociativismo y Economía Social*” (National Institute of Associations and Social Economy).

The current government of Argentina lacks the integrity required to be a trusted partner in handling sensitive information affecting the privacy and property of its citizens in the United States.

Vice President Cristina Fernandez is facing multiple criminal trials where she has been accused of grand corruption, fraud to the State, money laundering, and treason, among other offenses.

In her pursuit of impunity, she and her political associates in government have coopted and dismantled control bodies, such as the Tax Administration, the Financial Intelligence Unit (“UIF”), the Anti-Corruption Agency (“OA”), and the Solicitor General’s Office (“Procuración General del Tesoro”), among other agencies.

They have attempted, but so far failed, to take control of the prosecutorial

and judicial services, but have conducted and continue to conduct constant attacks against prosecutors and judges, unduly interfering in their independence and thereby breaching the Constitution of Argentina.

These circumstances have provoked a general deterioration of the always weak Rule of Law, and of the role of the Judicial Power as the ultimate guarantor of the constitution, causing a serious loss of confidence in the legal and institutional frameworks designed to protect individual rights and fundamental Freedoms.

In addition, their mismanagement of government and economic affairs has been characterized by an unsustainable increase in public spending that has widened the budgetary deficit and created unstable macroeconomic conditions. Despite numerous claims for spending cuts, the government has continued to pursue its spending spree, financing the deficit through foreign indebtedness, a confiscatory tax regime, and an irresponsible expansion of the monetary base, which has placed Argentina amongst the countries with the highest inflation rates in the world.

The consequences of such deliberate wrongdoings have caused multiple runs on the peso and its loss of value, a widespread increase of the informal economy, and a significant growth of capital flight flows towards safer laws and more stable currencies.

These are the underlying reasons that explain the presence of Argentine citizens with funds and other assets in the United States and in other jurisdictions that have historically offered protection to wealth from abuse of power and lack of liberty. Argentine citizens that have sought protection of their wealth in America have been largely driven by an instinct of self-preservation placing their trust in the American promise of a free society where the Rule of Law is upheld and where property right and privacy are protected.

Because of the above, Argentina has made it to the podium in our recent research of "Tax Hells", coming in third place after Belarus and Venezuela as one of the countries that worst combine a high tax regime with on-going government mismanagement. To the best of our knowledge Belarus signed an IGA to further implement FATCA in a much different geopolitical context and Venezuela of course does not have one. A complete list of these countries can be found in our website, www.the1841foundation.com.

If the United States Government signs an IGA and provides information to the Argentine government on the bank accounts held by Argentine citizens in the



US it would breach the trust that those running away from abuse across the world have historically placed on this system, turning a blind eye to the threats outlined above, and benefiting the abusers.

With all the above in mind, we firmly believe that Argentina should not get information from the United States automatically and that the current Treaty between both countries, signed in 2016, provides a good framework until said country can provide assurances that wherever information it receives will be safe kept following your guidelines.

If you receive this letter and an IGA with Argentina has been already executed, we respectfully request that the application of the same be suspended until a thorough review of the real, not technical, safeguards Argentina has to protect sensible information it will receive under FATCA is completed.

We will be happy to discuss any of the above with you and/or with your team further.

We look forward to hearing from you. Please direct your response and/or comments to martin.litwak@the1841foundation.com

Best regards,

A handwritten signature in black ink that reads "Martin Litwak".

Martin Litwak

The 1841 Foundation
Chairman

Individuals supporting this request (other than the members of "The 1841 Foundation"):

Jose Luis ESPERT (Congressman in Argentina, former candidate to the presidency of the country)

Pablo TORELLO (Congressman in Argentina)

José Luis PATIÑO (former Congressman in Argentina)

Manuel ADORNI

Roberto CACHANOSKY



Gustavo LAZZARI
Nazareno ETCHEPARE
Eduardo MARTY
Jeremías MORLANDI
Marta NERCELLAS
Carolina OBARRIO
Eliana SCIALABBA
Eduardo VIDAL

and others.

Organizations supporting this request (other than “The 1841 Foundation”):

Centro de Estudios Económicos Argentina XXI
Fundación Wilhelm von Humboldt
Partido Liberal de Argentina

and others.