



AMERICAN CITIZENS ABROAD

EDUCATE, ADVOCATE AND INFORM

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Policy Division
Financial Crimes Enforcement Network
P.O. Box 39
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Comments by American Citizens Abroad, Inc. on FINCEN-2020-0013 and the specific Office of Management and Budget (OMB) control number 1506-0009.

Americans Citizens Abroad, Inc. (ACA), a Washington, DC based qualified section 501(c)(4) non-profit, non-partisan membership organization representing the estimated 8 to 9 million Americans living abroad respectfully submits comments on Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Reports of Foreign Financial Accounts Regulations and FinCEN Report 114, Report of Foreign Bank and Financial Accounts.

Currently, Americans living and working overseas are subject to two financial account reporting regimes; the Foreign Account Tax Compliance Act (FATCA) Form 8938 and the Foreign Bank Account Report (FBAR) FinCEN Form-114. These filings often cause confusion for Americans overseas given the duplicative nature of the two reports, the differences in threshold levels for reporting and nature of accounts to be reported on each of the forms.

Many taxpayers overseas interpret “bank accounts” to be reported on FBAR to mean current accounts such as checking and savings accounts, when in fact foreign tax-free pensions and other foreign financial accounts may be reportable on an FBAR. FATCA reporting on Form 8938, may not include certain foreign accounts given the higher reporting thresholds for FATCA than for the FBAR reporting thresholds. These inconsistencies create reporting issues that can result in taxpayer reporting errors and oversights, as well as increased time to file. Often taxpayers will be assessed penalties simply for having misinterpreted the different filing requirements which results in having to resolve disputes with the IRS. Dispute resolution is already difficult to manage and given the physical distance between the taxpayers overseas and the IRS, the lack of servicing for overseas taxpayers from the IRS, disputes can take months to years to resolve. Many times the disputes involve simple misunderstandings of the forms or thresholds by the taxpayer, in particular if they are not using a professional tax preparer which is costly for overseas filers. The COVID-19 pandemic, lockdown and reduction in IRS servicing, has added to these problems during 2020.

ACA recommends the following corrective measures be taken to reduce the duplication of information reporting, reduce the confusion in reporting that results in errors and reduce the case load for the IRS.

1. Eliminate FBAR FinCEN-114 Form reporting requirements and allow information sharing using FATCA Form 8938 of taxpayer's tax return.



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2. In the alternative, increase the threshold for filing an FBAR FinCEN Form-114 to the same threshold as is required for FATCA Form 8938 for taxpayers living abroad and adjust for inflation annually. Filing thresholds for Form 8938 for Americans living abroad are:

Taxpayers living abroad that are defined as.

- A U.S. citizen whose tax home is in a foreign country and you are either a bona fide resident of a foreign country or countries for an uninterrupted period that includes the entire tax year; or
- A US citizen or resident, who during a period of 12 consecutive months ending in the tax year is physically present in a foreign country or countries at least 330 days.

If you are a taxpayer living abroad you must file a Form 8938 if:

- You are filing a return other than a joint return and the total value of your specified foreign assets is more than **\$200,000 on the last day of the tax year or more than \$300,000 at any time during the year; or**
- You are filing a joint return and the value of your specified foreign asset is more than **\$400,000 on the last day of the tax year or more than \$600,000 at any time during the year.**

Respectfully submitted,

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