



serving overseas Americans and the international community since 1931

December 28, 2010

Mr. Gerald Shields
IRS, Room 6129
1111 Constitution Avenue, NW,
Washington DC 20224

Cc/ Office of Management and Budget

Ref: Draft Form 8938 (revised July 2010)

Dear Mr. Shields,

It is my understanding that the IRS has invited comments on its new form 8938, Statement of Foreign Financial Assets, and that these are to be directed to you. I am therefore writing in my own name and on behalf of the international federation I represent and, given the short timeframe, am also sending my comments via Mr. Ralph Terry, for whom I have an email address whereas I have none for you.

FAWCO is a global network of over 75 independent organizations, with more than 15,000 members in 39 countries worldwide. We are a recognized NGO with ECOSOC status and a 501(c)(3) corporation established in the State of New York. One of our purposes is to “provide a voice for American women abroad and to support the rights of all Americans worldwide.”

It is for that reason that I wish to comment on this proposed new form, which will be perceived by the large population of Americans living and working overseas as 1) extraordinarily invasive, 2) a huge burden and ultimately a waste of time for themselves and for the IRS and 3) illegal in some countries as being an invasion of privacy.

At the outset, I must categorically state that your assumptions regarding the number of people affected and the time burden involved are incorrect. This form will affect a large proportion of the law-abiding community of **over 5 million Americans** living and working around the globe, often directly for their country.

For this population, as for most Americans in the United States, maintaining bank accounts abroad is a normal part of our daily life. We receive salaries and pay income tax in the countries where we live, we take out loans for our cars and our studies and our homes, we invest in stocks and bonds and savings plans to supplement our income and prepare for retirement, we maintain joint accounts with spouses to feed and clothe our families, we use credit cards for a large proportion of our purchases, we pay our bills.

FAWCO U.S. Liaison: 21 Boulevard Lefebvre, F-75015 Paris, France – **Email:** USLiaison@fawco.org
U.S. Tel: +1 202-580-8186 / **Eur. Tel:** + 33 (0)1 45 86 35 18

FAWCO IS A NOT FOR PROFIT CORPORATION REGISTERED IN THE STATE OF NEW YORK,
ACCREDITED BY THE UNITED NATIONS AS AN AFFILIATED NON-GOVERNMENTAL ORGANIZATION SINCE 1995



serving overseas Americans and the international community since 1931

We are not some 350,000 persons residing in the United States and for some reason maintaining a bank account or investing in securities abroad. We are ordinary citizens and simply happen to live in Paris or Seoul or Munich because, in many cases, we married a foreigner or were posted abroad by our company.

Every year, it is my job to remind FAWCO members and visitors to our website of the requirement to file Treasury form **TD F 90-22.1 (the "FBAR")**. In my case, filling out the form, requiring checking year-long bank statements for a number of different checking, savings and brokerage accounts, is a long and tedious process. Moreover, the "maximum amount during the year" does not reflect the reality of my financial situation since often, the maximum amount in one account will re-appear 4 days later in another, having been the object of a transfer.

In addition to that, each time I open a new account or make a change in a securities account, I am required to fill out a **W9** form confirming that I am a US citizen. My banks then report each of these accounts to the US authorities.

Moreover, under new regulations which could take effect, my banks (if they continue to service my accounts in view of the extensive reporting required of them) may be obliged to report all income and bank movements to the IRS.

I therefore fail to see how my filling out yet another form and obliging the IRS to review it in addition to all the other information coming in to it can possibly be beneficial to me or the IRS.

Surely the **Paperwork Reduction Act** prohibits such a huge waste of time and paper!

FAWCO is one co-signatory of a letter to you with detailed comments on various technical aspects and ramifications of your proposed form. If I am writing to you in my own name and on behalf of FAWCO, it is to complement that letter with the personal perspective of men and women like the members of my federation who have clearly been overlooked in the process of drafting this form. The vast majority of us, like the vast majority of residents of the United States, are law-abiding citizens. This new reporting requirement on us which **duplicates work** already required by the Treasury Department and compounds it with even more extensive information requirements would result in a great cost in time for overseas Americans, a daunting verification burden for the IRS and ultimately, a pointless exercise, since it most heavily affects not the tax evaders and money-launderers you seek to target but perfectly law-abiding citizens who have no choice but to deal every day with "foreign financial institutions".

On behalf of the 16,000 members of FAWCO and the rest of the population of 5 million overseas Americans, I respectfully urge you and your colleagues to reconsider the need for Form 8938.

Yours sincerely,

Lucy Stensland Laederich, FAWCO U.S. Liaison



serving overseas Americans and the international community since 1931

FAWCO U.S. Liaison: 21 Boulevard Lefebvre, F-75015 Paris, France – **Email:** USLiaison@fawco.org
U.S. Tel: +1 202-580-8186 / **Eur. Tel:** + 33 (0)1 45 86 35 18

FAWCO IS A NOT FOR PROFIT CORPORATION REGISTERED IN THE STATE OF NEW YORK,
ACCREDITED BY THE UNITED NATIONS AS AN AFFILIATED NON-GOVERNMENTAL ORGANIZATION SINCE 1995