April 26, 2010

FinCEN
U.S. Department of the Treasury
Vienna, Virginia
U.S.A.

Comments submitted over the e-rulemaking portal at www.regulations.gov (80ae0fc8)

Re: RIN 1506-AB08
Comments on proposed Amendment to the Bank Secrecy Act Regulations regarding Reports of Foreign Financial Accounts

Dear Sirs,

I am writing in my capacity as U.S. Liaison for FAWCO, the oldest and largest network representing private sector American citizens abroad, with respect to your proposed changes to regulations concerning reports on foreign bank accounts (FBAR). FAWCO, founded in 1931, has over 16,000 members in 38 countries worldwide. Over half of our members are married to host country nationals and are living indefinitely or permanently abroad. As FAWCO’s designated advocate in Washington, I have been receiving increasing numbers of reports of concern, which can only be aggravated by your proposed changes.

You have already received a very clear and detailed letter in this regard from American Citizens Abroad and I will not reiterate their arguments. I would, however, like to take this opportunity to complement them and add a different perspective.

First, however, you note in VI. that the estimated number of affected filing individuals and entities is 400,000. In view of State Department estimates of over 5 million private sector Americans abroad and the large number of Americans and other U.S. persons residing within the United States and maintaining bank accounts abroad, I suspect that your number is vastly underestimated.

Second, I cannot help reminding you that the current rules governing what accounts must be reported involve: US persons who have a financial interest in or signature or other authority over a foreign financial account if the aggregate value exceeds $10,000 at any time during the reporting year.

It is possible that 25 or more years ago, there were many Americans abroad with less than $10,000 aggregate at any one time in their foreign bank and other financial accounts. Today however, with the euro worth 1.337 USD, that amount probably only applies to students abroad and others with minimal assets and earning capacity. It would be impossible, for example, to rent a small apartment in Paris, where I have lived and worked for over 35 years, if one could prove no more in all of one’s bank accounts than EUR 7,479, or the equivalent of 4 to 5 months’ rent. At my age, in fact, if I did not have significantly
more than that in various accounts, I would be both irresponsible (in view of my near retirement) and financially immature (having set nothing aside during my entire working career).

As a result, I fear there may be several million Americans, inside the United States and out, who, perfectly innocently (i.e. with no intent to defraud the government), are in contravention of regulations whose non-observance makes them liable to devastating sanctions.

On behalf of my federation, I wish also to draw your attention to two widespread, certainly unintended, and potentially disastrous consequences of the changes you propose:

1. **Americans living and working abroad are no longer wanted as co-signers on accounts held jointly with non-U.S. persons.**
   The most heartbreaking of the comments I have received from FAWCO members have come from women with non-American husbands who have decided, for the most part willingly, to remove their names from their joint bank accounts and to waive power of attorney over their husband’s accounts in the event of their incapacity or death. Because their husbands are understandably reluctant to comply with these increasingly burdensome and invasive reporting requirements, these women are now totally financially dependent on the good will of their husbands to run their households and will find themselves in financial distress upon their husbands’ death, with no immediate access to money at all.

2. **Small businesses and not-for-profit organizations abroad will no longer have U.S. citizens in positions of authority.**
   Because I am regularly in contact with the leaders of FAWCO member organizations, I know that many are becoming reluctant to take on positions of authority, as President or Treasurer, because they will suddenly cross the reporting threshold. I also know of people who have been told by their foreign business partner that they would prefer to dissolve their partnership than find themselves subject to financial reporting requirements to a government they have no relationship or dealings with. In France and many other countries, as a matter of fact, privacy laws render such requirements by a foreign government illegal.

In none of these cases are we looking at money-laundering or sponsoring of terrorist activities. These are cases of perfectly legitimate U.S. citizens going about their business of running a household and raising a family, volunteering their skills to the benefit of their local communities, pursuing their careers as international entrepreneurs. Nor are our bank accounts being held in tax havens abroad, but rather in local banks near our homes and places of business.
I am afraid that once again, perfectly honest Americans living and working overseas are the inadvertent victims of rules drawn up in good faith but without taking their situation into account. Just as ACA has pointed out the impact of your proposed changes on business abroad, I respectfully ask you to consider the human impacts on families, retired people, students, and the many associations, from small sports clubs to large and respected international NGOs like FAWCO, which represent the face of America around the globe.

Thank you for your consideration.

Lucy Stensland Laederich, FAWCO U.S Liaison