AMB America's Mutual Banks

AMB Special Update: The Effects of the American Families Tax Plan on Community Mutual Institutions

Some of you may recall several months ago we warned that a plan to report small bank transactions was brewing in the Biden administration. Now that Plan has matured as part of the Treasury's detailed legislative proposal as part of the infrastructure Bill. The American Families Tax Plan, released by the Department of Treasury, proposes a new compliance framework requiring financial institutions to report gross inflows and outflows on all accounts, to the IRS. The Department of Treasury's *General Explanations of the Administration's Fiscal Year 2022 Revenue Proposals* (2021) states:

> Financial institutions would report data on financial accounts in an information return. The annual return will report gross inflows and outflows with a breakdown for physical cash, transactions with a foreign account, and transfers to and from another account with the same owner. This requirement would apply to all business and personal accounts from financial institutions, including bank, loan, and investment accounts, with the exception of accounts below a low de minimis gross flow threshold of $600 or fair market value of $600. (p. 88)

This proposal is harmful to community mutual institutions, the people they serve, and to the work mutual institutions have done to build trust among historically marginalized communities.

Due to their relatively small size and the indifferent regulatory and policy maker attitudes towards mutuals, high compliance costs are already a significant burden. While the administration might argue that the compliance infrastructure is not burdensome, these costs are being viewed primarily from the perspective of trillion dollar banks whose technology costs are a relatively small percentage of their overhead. As mutuals learned with the obligations imposed on them with the Anti Money Laundering (AML) laws, there is no end to what the government will expect from banks once they are seen as a quasi-government enforcement arm. Further, the interplay of IRS reporting and AML reporting will have a greater impact on influencing customers to abandon traditional banks in favor of shadow banks. New bank customer transaction monitoring and IRS reporting is likely to cause cryptocurrency to play an even greater role in the economy as customers seek privacy from big brother oversight, and move funds out of the banking system creating less stability. Entire businesses may find themselves unbanked if new policies are adopted to avoid "high risk" businesses that may have unusually high transaction numbers and thus present a greater reporting burden. Higher compliance costs for community banks will hasten "banking climate change", fueling a climate ripe for further consolidation.

At the heart of this issue, however, lies the trust factor between marginalized communities, financial institutions, and the government. Large commercial banks have neglected underserved community members in favor of low hanging financial fruit. Historically, mutual institutions have served these neglected communities, expanding employment opportunities, home ownership, and financial literacy for those who have been left behind by large commercial banks. Mutuals are of the community, operated for the community, by the community.

This trend continues today, mutuals play a central role in community investment and local entrepreneurship. These new reporting requirements may do significant damage to the established trust between mutual institutions, and the communities they serve. Distrust and skepticism of banks, fueled by historical context, affects the likelihood that a given household is "unbanked", this trend is exemplified by higher "unbanked" rates for minority and rural households.[1]

M Mutuals have worked tirelessly to bridge the trust gap, and overcome the privacy and trust concerns which additional reporting requirements raise. Indeed, the administration's own plan highlights the historical inequities and reasons for significant distrust in the IRS and other government institutions. A section of the plan titled, 'Inequities in Tax Enforcement' describes that the tax code is more burdensome on lower income individuals, and it also "disadvantage[s] Black and Hispanic families in particular."[2] Additionally research has shown that tax enforcement can also be discriminatory or prejudiced against minority families. Thus despite acknowledging the ways in which the IRS has historically hurt minority individuals, the proposal still suggests measures that may compound injury to marginalized communities, and damage what little trust exists between these communities, the institutions that serve them, and the government as a whole.

The proposed legislative compliance measures pertaining to IRS transaction reporting, are misguided and will only serve to exacerbate existing challenges facing mutual institutions, as well as other community banks and underserved communities.

Doug Faucette
America's Mutual Banks
202 220 6961
701 8th Street, N.W.
Suite 500
Washington D. C. 20001
dfaucette@lockelord.com
www.americasmutualbanks.com

[1] Fuchs, H. (2021, October 4). The banks fight Biden's agenda by claiming the mantle of civil rights warriors. Retrieved from https://subscriber.politicopro.com/article/2021/10/the-banks-fight-bidens-agenda-by-claiming-the-mantle-of-civil-rights-warriors-2089362

[2] U.S. Department of the Treasury. (2021). *The American Families Plan Tax Compliance Agenda.* Washington, D.C.