

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

October 18, 2021

The Honorable Janet L. Yellen
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Ave., NW
Washington, D.C. 20220

Dear Secretary Yellen:

We write to express serious privacy concerns over the Biden Administration's controversial proposal to surveil American's private bank transactions. We are skeptical of the need for this dangerous expansion of IRS oversight into the daily lives of Americans, have reason to believe the true targets are farmers, families, and small businesses, and question the IRS's capacity to protect this unprecedented amount of personal banking information. We recognize that even \$10,000 de minimis annual threshold would sweep up the bank information of nearly every American with a job. The Administration's proposal has rightly been criticized for its near-universal scope, its significant risk to individual privacy, and its dangerous empowerment of the Internal Revenue Service (IRS). Given inconsistent messaging surrounding the proposal we are seeking clarification from the Administration regarding the scope and impact of the bank surveillance scheme it is proposing.

The Department of the Treasury's *General Explanations of the Administration's Fiscal Year 2022 Revenue Proposals* ("Green Book") describes the reporting requirement, or the "Comprehensive Financial Account Reporting," as follows:

This proposal would create a comprehensive financial account information reporting regime. 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 \$600.¹

The Administration's Green Book proposal requiring financial institutions to provide detailed breakdowns of cash-on-hand, foreign transactions, and transfers to and from accounts, is clearly inconsistent with subsequent explanations of the reporting requirement. For instance, before the Ways and Means Committee on June 17, 2021, you described the proposal as providing the IRS

¹ DEP'T OF THE TREASURY, GENERAL EXPLANATIONS OF THE ADMINISTRATION'S FISCAL YEAR 2022 REVENUE PROPOSALS 88 (2021) (hereinafter "Green Book") (emphasis added).

with “just additional two pieces of information,” from financial institutions.² Later, before the Senate Banking, Housing, and Urban Affairs Committee on September 28, 2021, you stated:

This is not a proposal to provide detailed transaction-level data by banks to the IRS. It is a proposal to add two additional pieces of easily ascertained information on to the 1099-INT form that banks already file, namely the aggregate inflows into the account during the year and the aggregate outflows.³

Despite your statements that the Administration is not seeking transaction-level data from individual and business accounts, even Democrats in Congress have proposed to narrow the scope of the Administration’s reporting regime, including by increasing the de minimis threshold to \$10,000.⁴ Meanwhile, the Administration has doubled down on its need to monitor bank accounts. In September, Acting Assistant Secretary for Tax Mark Mazur detailed the Administration’s proposals for mandatory IRS funding and bank account surveillance stating, “both components of the plan are essential,” in order “to truly overhaul tax administration.”⁵ In the same memo, however, Mazur also indicated a higher de minimis threshold will result in a lower potential revenue from enforcement from the Administration’s proposed threshold.⁶

Finally, we are concerned about the IRS’s capacity to safely and efficiently utilize private personal and business bank account information of individuals, particularly after the recent criminal leak of private tax return data of U.S. citizens to ProPublica.⁷ Even assuming the IRS can properly safeguard private bank account information, the Treasury Department has indicated it will “take some time to implement [the information reporting proposal] and for the IRS to determine how best to deploy this new information.”⁸

Given the magnitude of the Administration’s proposal and the significant, valid privacy concerns raised by individuals and businesses, we ask that you answer the following questions:

1. Can you confirm that the Administration is no longer proposing to collect any transaction-level data on personal and business bank accounts?

² The President’s Proposed Fiscal Year 2022 Budget with Treasury Secretary Janet Yellen: Hearing Before the H. Comm. on Ways & Means, 117th Cong. (2021).

³ CARES Act Oversight of the Treasury and Federal Reserve: Supporting an Equitable Pandemic Recovery: Hearing Before the S. Comm. On Banking, Housing, and Urban Affairs, 117th Cong. (2021).

⁴ Laura Davison & Colin Wilhelm, *Democrats Eye Narrowing Biden Plan on Bank Reporting to IRS*, BLOOMBERG (Sept. 27, 2021, 8:19 PM), <https://www.bloomberg.com/news/articles/2021-09-28/democrats-agree-to-10-000-limit-to-report-bank-accounts-to-irs>.

⁵ Letter from Janet L. Yellen, Sec’y, Dep’t of the Treasury to Hon. Richard E. Neal, Chairman, Comm. on Ways & Means (Sept. 14, 2021).

⁶ *Id.*

⁷ Letter from Mike Crapo, Ranking Member, S. Comm. on Finance and Kevin Brady, Republican Leader, Comm. on Ways & Means to Hon. Charles P. Rettig, Comm’r, IRS (June 9, 2021) https://gop-waysandmeans.house.gov/wp-content/uploads/2021/06/Letter-to-IRS-Rettig_Crapo-Brady_0609212.pdf

⁸ Letter from Janet L. Yellen, Sec’y, Dep’t of the Treasury to Hon. Richard E. Neal, Chairman, Comm. on Ways & Means (Sept. 14, 2021).

2. Can you confirm that the Administration will not seek transaction-level data on personal and business bank accounts in the future, including through future legislative proposals or through current or future regulatory authority?
3. Please identify which segment of the tax gap the bank surveillance data is intended to close and whether farmers and small businesses will be targeted using this information. If they will be targeted, what percentage of the revenue collected from the bank surveillance information is expected to come from farmers and small businesses?
4. Does the IRS have a plan for effectively utilizing information received from bank surveillance as a means to increase compliance in the absence of transaction-level data and an increase in the de minimis threshold above \$600? If so, please provide us with that plan.
5. Is the IRS capable of safely utilizing any new bank surveillance data given data security and individual privacy concerns?
6. Has the Treasury Department conducted an analysis of the impact on its revenue estimates for the bank surveillance proposal if the de minimis threshold is raised to \$10,000 or higher? If so, please provide us with that information.
7. Has the Administration evaluated alternative bases of authority to implement the bank surveillance scheme in the absence of proposed legislation, including existing law or regulatory authority?

Please provide answers to the questions underlined above by October 28, 2021. If you have any questions, please contact Rachel Kaldahl or Sean Clerget on the Ways and Means Oversight Subcommittee staff.

Sincerely,



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Republican Leader
Committee on Ways and Means



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Committee on Ways and Means



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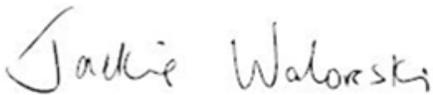
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