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RAHN: Geithner's willful negligence

Treasury secretary ignored economic impact of new bank reporting rules

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Illustration by John Camejo for The Washington Times

What would you think of a secretary of the Treasury who failed to do serious cost-benefit analysis about regulations that could cost millions of Americans their jobs and cause innocent people to be subject to political abuse or worse and yet have almost no benefit to the United States?

Over the past several years, Treasury SecretaryTimothy F. Geithner was warned by many private economists and members of Congress of the adverse consequences of a proposed rule that would force U.S. banks to be uncompensated tax collectors for foreign governments. On April 17, Mr. Geithner issued the rule anyway.

Rep. Bill Posey, Florida Republican, responded by saying: "The administration's decision overturns a hundred-year-old policy that has welcomed tens of billions of dollars from foreigners, putting their money to work in America. In doing so, the administration has thumbed its nose at the entire Florida delegation [both Democrats and Republicans] who wrote the president on March 2, 2011, asking him to withdraw the ill-advised proposal, which would 'cause irreparable harm to the U.S. economy' and 'negatively affect the solvency of financial institutions' in the state of Florida. They are basically telling foreigners that their money is no longer welcome in the United States."

Mr. Posey added, "Deeply troubling is the administration's refusal to conduct a simple economic impact study to analyze the loss these deposits will have on the U.S. economy." Sen. Marco Rubio, Florida Republican, also blasted this job-destroying regulation and noted that the money being driven away "is used for loans to help entrepreneurs create jobs as they start new businesses or expand existing ones."

To put it simply, the Obama Treasury Department and Internal Revenue Service (IRS) are forcing U.S. banks to report to foreign governments that often are corrupt or worse on lawful deposits their citizens hold in U.S. banks, thus putting those citizens' lives at risk. As the former governor of Oklahoma and now president of the American Bankers Association, Frank Keating, wrote: "While the IRS minimizes potential security issues, nonresident aliens are unlikely to feel reassured by promises that their information won't fall into the wrong hands. These pledges could be met with apprehension when countries with questionable human rights records remain on the recipient list. This rule gives nonresident aliens every incentive to pick up and move their deposits elsewhere."

It only gets worse. The Treasury/IRS has finalized another rule set to go into effect on Jan. 1, 2013, called the Foreign Account Tax Compliance Act. It puts a huge paperwork, cost and legal liability burden on foreign financial institutions and U.S. banks that also operate abroad. It is having the predictable consequence of making it very difficult, if not impossible, for Americans living abroad to have a local bank account (which, in many places, is almost a necessity). There is more than $10 trillion in foreign-portfolio (stocks and bonds) investment in the U.S. This is not counting direct investment by foreign corporations and others. Much of this $10 trillion-plus is managed by foreign financial institutions. Now many of them are saying they are going to leave the U.S. market because of these regulations, which means the potential loss of several million U.S. jobs.

As Mr. Keating has said, "These costly information reporting regimes are not used by the banks themselves; instead, these are required forthesole benefit of the IRS. In some cases, it is difficult to understand how the IRS will even use these new reporting rules." The real scandal is that the Treasury/IRS never did a real cost-benefit analysis before finalizing these rules. The reason they didn't is obvious. Neither rule could have been justified on economic or human rights grounds - it is all about power for a few in Washington and their foreign bureaucrat cronies. The failure to do what any responsible person would do - by looking at the real and potential resulting harm - constitutes willful negligence. If Mr. Geithner or IRS Commissioner Douglas H. Shulman were in the private sector, they clearly could be indicted and probably convicted because of both the monetary damage and risk to individual lives these rules promulgated by them are causing and will cause.

Mr. Geithner, in particular, seems to have no shame or sense of responsibility. Last week, the trustees' report on Social Security and Medicare was issued, showing that not only are both programs unsustainable but they are approaching insolvency at an even faster rate than previously thought. So does Mr. Geithner come up with a plan to salvage the situation? No, he blasts House Budget Committee Chairman Paul Ryan for having the courage - unlike himself - to put forth a plan to deal with an arithmetic reality.

Looking at the actions and words of Mr. Geithner, you can conclude that he is consciously trying to destroy the U.S. economy, he lacks a sufficient number of brain cells and nerve connections for the job, or his ego and desire to pander to his boss and well-known economic illiterates has caused him to be willfully negligent over and over again. The latter is probably closest to the truth.

Richard W. Rahn is a senior fellow at the Cato Institute and chairman of the Institute for Global Economic Growth.

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