FINANCIAL INNOVATION NOW

July 1, 2021

Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218,
Washington, DC 20219
Docket ID OCC-2020-0049

Comment Intake
Bureau of Consumer Financial Protection
1700 G Street NW
Washington, DC 20552
Docket No. CFPB-2021-0004

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW,
Washington, DC 20551
Docket No. OP-1743

James P. Sheesley
Assistant Executive Secretary
Attention: Comments-RIN 3064-ZA24
Federal Deposit Insurance Corporation
550 17th Street NW, Washington, DC 20429
RIN 3064-ZA24

Melane Conyers-Ausbrooks
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428
Docket No. NCUA -2021-0023

Re: Request for Information and Comment on Financial Institutions' Use of Artificial Intelligence, Including Machine Learning

To Whom It May Concern:

Financial Innovation Now ("FIN")[1] offers the following comments in response to the *Request for Information and Comment on Financial Institutions' Use of Artificial Intelligence, Including Machine Learning* (the "Request for Information") published by the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Consumer Financial Protection Bureau and National Credit Union Administration (collectively, the "Agencies") on March 31, 2021.

FIN members appreciate that the Agencies recognize the potential benefits of artificial intelligence ("AI"), both in augmenting the decision-making of financial institutions and other financial services industry participants (collectively referred to herein as "financial institutions") and in enhancing financial services and access to such services for consumers and businesses. Given the breadth of

[1] FIN is an alliance of leading innovators - Amazon, Apple, Google, Intuit, PayPal, Square, and Stripe. For more information regarding FIN's policy priorities and principles, please visit https://financialinnovationnow.org.

potential uses of AI for financial institutions, FIN members also appreciate the Agencies' support for responsible innovation in this area.

At this time, FIN members encourage the Agencies to refrain from promulgating new rules for AI because of the risk of inadvertently impeding the development and further adoption of AI within the industry. We believe that financial institutions can develop and implement best practices to maximize the benefits of AI while effectively mitigating the key risks associated with use of this new technology. Indeed, many financial institutions have already begun carefully implementing AI to enhance existing systems, with the potential for greater use of AI to increase efficiency, effectiveness and fairness.

Notwithstanding the considerable benefits that AI offers to financial institutions and their customers, FIN members recognize the critical importance of mitigating the potential risks associated with such technology. Importantly, considerable work has already been done to understand the principal risks to fintech companies and their customers. As the Agencies have recognized, many of these risks—such as the risk of internal process or control breakdowns or risks of unlawful discrimination, or unfair, deceptive or abusive acts or practices—are not unique to AI and are risks that fintech companies have addressed in other contexts. FIN members therefore believe that, at this time, fintech companies are well-positioned to develop and implement strategies to manage these risks without further regulation. In this regard, FIN members believe that many of these risks can be proactively addressed in the design phase of new AI initiatives. Further, the implementation of appropriate governance, risk management and compliance programs can ensure that key risks can be identified and effectively mitigated without impacts to customers.

Transaction Monitoring and Bank Secrecy Act/Anti-Money Laundering Compliance Programs

We believe it is important to note that one area in particular where AI offer can offer significant benefits is in the context of in enhancing transaction monitoring systems and strengthening Bank Secrecy Act/anti-money laundering ("BSA/AML") compliance programs. For instance, we understand that some fintech companies have already implemented what is known as "supervised" machine learning. In supervised machine learning, the determinations of human investigators with respect to whether a transaction may involve suspicious activity can be monitored by an AI system that is able to learn from those decisions and suggest outcomes with respect to other transactions. FIN members believe that such systems have the potential to make final decisions regarding potentially suspicious activity with equal or greater accuracy than human investigators and that supervised models could be conducted to validate that such AI leads to superior outcomes.

Some financial institutions have also implemented "unsupervised" machine learning, in which an AI system looks for outliers in datasets. AI systems are capable of superior pattern recognition in that they can identify relationships that may not be intuitive to humans or revealed in traditional financial institution monitoring systems (*e.g.*, outliers that are often missed by traditional rules and filters). At a minimum, unsupervised machine learning can serve as a "security blanket" for existing traditional monitoring systems by validating what is already commonly captured as suspicious activity and by potentially identifying additional suspicious transactions. Ultimately, however, with appropriate testing and the implementation of proper controls, such technology offers significant, new capabilities to combat money laundering and terrorist financing. FIN members therefore urge the Agencies to further support the implementation of AI in transaction monitoring systems and in BSA/AML compliance programs.

Fair Lending

AI can also offer promising applications in lending. It has the potential to aid in significantly expanding access to credit through more refined and lower-cost underwriting. Importantly, AI may enable financial institutions to reach historically underserved customers and small businesses that may lack traditional credit histories or collateral. FIN members, however, also recognize that two of the key risks associated with the use of AI in lending are the potential for bias or inequitable outcomes and lack of transparency in how AI systems arrive at particular credit decisions.

We believe that careful model design, documentation and governance can ensure compliance with the Equal Credit Opportunity Act and other fair lending laws and equitable and transparent outcomes. For example, high-quality datasets can be used in AI to help guard against potentially biased and inequitable decisions. Moreover, many machine learning models are explainable at a technical level at minimum and, in many contexts, also explainable at a consumer level. Indeed, systems can be designed such that each data feature is given a certain weight, creating the ability to estimate how each data point impacted a decision and therefore resulting in readily interpretable outcomes (that are explainable to consumers and businesses). To further bolster explainability, AI systems can also be coded to log and monitor activity. FIN members understand that some regulators may also be concerned about data integrity, governance and controls in an AI system that can make dynamic adjustments. FIN members support technological measures to address this risk, such as such as comprehensive state-recording (*i.e.*, recording of software parameters) at the time of AI decision-making. FIN members believe that such technological controls can significantly, if not entirely, mitigate risks associated with dynamic updating.

FIN members believe that AI has the potential to, and already is demonstrating that it can, offer clear benefits to financial institutions and their customers. Adopting risk-based approaches to the implementation of AI while pursuing further innovation can enable financial institutions to achieve many of these expected benefits without creating inappropriate levels of risk to themselves and their customers. If stakeholders seek regulatory clarity in a specific instance, regulators may consider targeted guidance on a case-by-case basis. Accordingly, at this time, we encourage the Agencies to refrain from promulgating new rules with respect to the regulation of AI and to support further adoption of such technology within the financial services industry, including for use in transaction monitoring and in lending.

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FIN appreciates the opportunity to comment on the Agencies' Request for Information and looks forward to continuing engagement with the Agencies on these types of issues. We promote policies that enable technological innovation to make financial services more accessible, safe and affordable for everyone, and the suggestions provided herein are consistent with those goals.

Respectfully submitted,

[redacted]

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