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Via Electronic Submission

Melane Conyers-Ausbrooks
Secretary of the Board
National Credit Union Administration
1775 Duke Street, Alexandria, VA. 22314-3428

Re: Docket No. NCUA-2021-0023; RIN: 3064-ZA24

Dear Ms. Conyers-Ausbrooks:

First Financial of Maryland FCU welcomes the opportunity to comment on NCUA and other Agencies' Request for Information regarding use of Artificial Intelligence (AI) and Machine Learning (ML). We serve communities in Central Maryland and have $1.1B in assets. Our response addresses Question 9.

Since 2017 we have maintained an Innovation and Strategy Department to advance business processes and technologies for the benefit of our members. One subject of great interest is developing and deploying AI/ML systems because the approach offers capability that is not achievable by other technical means. We are noted in industry media for developing AnyTime Express, a first-of-a-kind system using AI/ML to deliver 24/7/365 loan fulfilment within minutes of application.[1] Our experience as a technology leader and community focused institution is a source of foresight for our many peers who share our ambition and challenges.

Our chief message to regulators is to view AI/ML as a multi-faceted data-enabled technology and place attention on the origin, transparency, quality, and availability of data sources and processes and avoid focus on the otherwise undifferentiated "algorithms" per se. The market structure of buyers and sellers of data, applications, and services related to AI/ML may substantially change the landscape of influence and relationships among institutions and their vendors. Positive outcomes for consumers and the financial system will be realized – and adverse effects avoided – if Agencies maintain skepticism and exercise effective regulation of the market power of data and technology providers, especially vis-à-vis community institutions.

[1] https://www.creditunions.com/articles/first-financial-creates-in-house-aiml-lending-experience/

In recent decades, the increase of financial technology in our business processes has led to increased reliance on outside vendors, such as suppliers of core banking systems, digital banking interfaces, and consumer data providers. Unsurprisingly, vendor lock-in is used to thwart competition among vendors, prevent self-sufficiency otherwise achieved through in-house development of technical solutions, and cultivate technological helplessness of community institution clients. When institutions involve AI/ML in a greater scope of business functions, mere vendor reliance may increase to a problematic *dependency* in the absence of effective checks on overly coercive vendor influence at the institution level and at the broad industry level.

We foresee a particular danger of under-regulated third-party data and technology providers presenting new and unnecessary dimensions of risk to the financial system and to market outcomes:

1) Operations absorbed into third-party AI/ML will cause community institutions to lose vital insight and control of once-familiar processes, *unknowingly* ceding business judgement to be concentrated in non-banks acting as vicarious banking decision-makers.
2) Coercive dominance and rent-seeking behavior on the part of technology third parties will centralize profit in the hands of those organizations while leaving risk abundant in many smaller and more vulnerable hands.
3) Homogenization of operations performed by AI/ML on behalf of community institutions through a small number of providers erodes the diversity and independence of financial decision-making, diminishing consumer choice for individuals and the marketplace at large.

The undue dominance of data and technology vendors will ultimately result in a community banking system that is substantially higher in risk while blunting the many benefits to the communities that it serves.

Fortunately, regulators can embrace some general principles to realize the upside of AI/ML technology while protecting against the downside:

- *Mandate open architectures for data sources and AI/ML systems* – Establish and require conformance to interoperability standards so that mix-and-match substitution among data sources, platforms, and providers is economically and technically feasible. Open architectures inherently increase transparency, limit the scope of "black-boxes," and increase resilience otherwise hindered by vendor lock-in.
- *Prohibit vertical monopolies* – Require arms-length separation of data providers from application and decision support providers to promote competition along segments of the AI/ML value chain. Require separation of technology providers from technology validators in the same way accounting audit should be separate from business advice.

- *Prevent moral hazard* – Require AI/ML decision providers to maintain material participation in ultimate outcomes, e.g., a loan underwriting decision technology provider must maintain a material financial interest in loan performance. Examine outsourced technologies to determine adequate client insight and control. Discourage vendor contracts with abusive, rent-seeking terms such as overdone vendor exclusivity, disproportionate limitations on liability and liquidated damages, or unreasonable take-or-pay provisions.

The First Financial team and I are happy to answer questions and support follow up discussions. I may be reached at the contact information below.

Respectfully,

/s/ Michael A. Powers, Ph.D.

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