



The National Voice of the State Credit Union System

July 1, 2021

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

Comment Intake
Bureau of Consumer Financial Protection
1700 G Street, NW
Washington, DC 20552

Re: Request for Information on Financial Institutions' Use of Artificial Intelligence, including Machine Learning¹

Ladies and Gentlemen:

The National Association of State Credit Union Supervisors (NASCUS)² appreciates the opportunity to provide feedback on the Interagency Request for Information (RFI) regarding the use of Artificial Intelligence/Machine Learning (AI/ML) by financial institutions. We commend the National Credit Union Administration (NCUA) and Consumer Financial Protection Bureau (CFPB) on their efforts to engage stakeholders and solicit comment on these complex concepts to assist in developing a better understanding and appreciation for this dynamic and quickly changing area.

As noted in your RFI, NASCUS also recognizes the potential benefits that AI/ML can bring to the financial sector in the form of "improved efficiency, enhanced performance and cost reduction" among other things.³ However, the potential risk of harm to consumers caused by AI/ML implementation of discriminatory or biased decisions cannot be understated. As a result, we advocate that the NCUA and CFPB take a slow, methodical approach to determining the best regulatory scheme to address this developing technology. We believe such an approach must incorporate close coordination and collaboration between federal and state regulators in addition to the continued collection of input from other stakeholders. Based on the various discussions concerning the pros and cons of AI/ML, we believe that any anticipated guidance and regulation would need to provide insight on important factors

¹ Request for Information and Comment on Financial Institution's Use of Artificial Intelligence, including Machine Learning (March 31, 2021) (OCC Docket ID OCC-2020-0049, FRB Docket No. OP-1743, FDIC RIN 3064-ZA24, CFPB Docket No. CFPB-2021-0004, NCUA Docket No. NCUA-2021-0023).

² NASCUS is the professional association of the nation's 45 state credit union regulatory agencies that charter and supervise over 2,000 state credit unions. NASCUS membership includes state regulatory agencies, state chartered and federally chartered credit unions, and other important stakeholders in the state system. State chartered credit unions hold over half of the \$1.87 trillion assets in the credit union system and are proud to represent nearly half of the 125 million credit union members.

³ "Request for Information and Comment on Financial Institutions' Use of Artificial Intelligence, including Machine Learning" 86 Fed. Reg. 16837 (March 31, 2021).

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such as choosing appropriate data sets; transparency; explainability; accountability and appropriate assessment standards among other things.

The resulting guidance and regulation should be sufficiently risk-based and provide for ample flexibility to ensure consumer protection while not stifling innovation. In addition, we strongly encourage NCUA and the CFPB to provide guidance and regulation that is flexible enough to accommodate the implementation needs of all institutional asset sizes. Credit unions can range in size from hundreds of thousands of dollars to \$100 billion in assets. There are 18 federally insured credit unions with assets over \$10 billion and 3300 of the 5000 federally insured credit unions in the United States are less than \$100 million in assets. Guidance or regulation that is too inflexible or that makes AI/ML cost prohibitive may severely impact smaller institutions' ability to utilize these tools, which may ultimately result in lost opportunities/advantages for impacted consumers.

In addition, we believe a related and important element of this engagement is the need to develop a common lexicon among stakeholders regarding AI. As we are sure you are aware, there is much variation of opinion as to what technology falls within the definition of "AI." An important and necessary foundational step in this process would be the development of a common understanding of what constitutes "AI" and related concepts. An agreed upon set of foundational definitions would likely go a long way towards avoiding future confusion among stakeholders related to divergent regulatory guidance and rules issued to address this area.

In light of the complex nature of the concepts involved, we believe the best path forward will require thoughtful deliberation during the development of applicable guidance and regulation. Along with other stakeholders, the state credit union system is looking for opportunities to better understand this rapidly emerging tool and how it can be beneficial to our sector. As such, NASCUS and our state supervisory agency members stand ready to assist the NCUA and CFPB in advancing more in-depth comprehension around the role that AI/ML can play in financial services and we will continue to stay engaged on this issue.

Sincerely,

- signature redacted for electronic publication -

Nichole Seabron

Vice President, Legislative & Regulatory Counsel