America's Credit Unions

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January 31, 2024

The Honorable Tina Smith
Chairwoman
Committee on Banking, Housing
and Urban Affairs
Subcommittee on Housing, Transportation,
and Community Development
United States Senate
Washington, DC 20510

The Honorable Cynthia Lummis
Ranking Member
Committee on Banking, Housing
and Urban Affairs
Subcommittee on Housing, Transportation,
and Community Development
United States Senate
Washington, DC 20510

Re: Today's Hearing: "Artificial Intelligence and Housing: Exploring Promise and Peril"

Dear Chairwoman Smith and Ranking Member Lummis:

On behalf of America's Credit Unions, I am writing regarding the Subcommittee's hearing entitled, "Artificial Intelligence and Housing: Exploring Promise and Peril." America's Credit Unions is the voice of consumers' best option for financial services: credit unions. We advocate for policies that allow the industry to effectively meet the needs of their nearly 140 million members nationwide.

America's Credit Unions appreciates the Subcommittee holding this hearing on the potential transformative properties of artificial intelligence (AI) and how it impacts the housing ecosystem in this country. Credit unions are engaging in collaborative innovation by working with credit union service organizations (CUSOs) and other financial technology vendors to leverage the power of AI for many aspects of their daily operations. From member service interactions to AI chat-bots to mortgage origination – credit unions are seeing firsthand how AI is increasing staff efficiency, automating previously laborious tasks, reducing paperwork, and expediting loan decision making processes. These efficiencies have tangible benefits to the communities credit unions serve and have shown promise in helping low-and moderate-income families get access to affordable credit. It's imperative that credit unions continue to responsibly utilize AI to maintain a competitive member-focused advantage against Wall Street megabanks.

As the financial services industry continues to rapidly innovate and further integrate AI tools into their core systems, credit unions have a variety of concerns about how their regulators approach AI and the potential risks AI poses to systems they use to serve their members.

America's Credit Unions Supports Efforts to Reduce Barriers to Innovation

Financial sector regulators should tailor future actions related to AI in a way that distinguishes between the use of AI technology by regulated versus unregulated institutions. With respect to highly regulated financial institutions, such as credit unions, an appropriate regulatory framework should recognize the need for less prescriptive intervention and greater accommodation of innovation through pilot programs, no-action letters, waivers, and elimination of outdated rules. In an environment where non-bank fintech companies may be enjoying less rigorous supervisory oversight than traditional financial institutions, regulators should be exploring frameworks that make innovation accessible not just to the largest and most sophisticated entities, but also to smaller, community-based institutions. The need to establish a fair playing field cannot be overstated. Additionally, an overly complex or intrusive supervisory framework for assessing the innerworkings of AI algorithms would likely deter credit unions from investing in these technologies and frustrate efforts to partner with CUSOs and other technology providers.

Certain third-party providers of AI services may not grant customers access to the proprietary code that underlies machine learning algorithms or models. In these circumstances, demanding that end-users attest to the specific operational parameters of an AI product would not be feasible and would likely inhibit the use of such technology by credit unions unable to develop these products in-house. While AI explainability may be a key consideration for regulators, innovation cannot reasonably take place in an environment where every line of code is scrutinized, and financial institutions must prove a negative: that a model is incapable of error. A more reasonable approach would be to encourage regulators to understand how AI risks can be addressed through the application of existing laws and regulations, which are not limited to any particular mode of decision making or technology. As discussed below, the evaluation of AI outputs using existing compliance procedures can identify and prevent consumer harm before it occurs.

Ensuring Financial Inclusion and Fairness in Lending with AI Optimization

Credit unions were created to offer provident credit to all members of their communities and this organizing principle helps to explain the prevalence of robust relationship lending models across the industry. As cooperatives that are directly accountable to their member-owners, credit unions are focused on developing long-lasting, trusted relationships—an interest that is best served by adhering to core principles of equality and fairness.

Credit unions follow existing regulations and guidance implementing the Equal Credit Opportunity Act (ECOA) and other antidiscrimination laws and have a track record of exceptional fair lending compliance. Most credit unions engage in self-tests or self-evaluations as part of their ongoing monitoring of fair-lending risks. While self-evaluations can vary in terms of their scope and sophistication based on a credit union’s risk profile, they generally encompass review of denied applications; comparisons of loan files; analysis of HMDA data, and review of lending policy exceptions. Self-tests can be similarly varied and encompass a variety of analytical techniques (e.g., surveys, use of test applicants, review of credit transaction records). Both types of testing could function as post-hoc methods for evaluating the results of AI-driven lending decisions. These existing methods should be regarded as effective for detecting and addressing fair lending risks. Deconstructing the entirety of an AI algorithm to address explain-ability or overfitting risks would be costly and less productive for examination purposes.

AI and machine learning can improve access to credit and access to housing as long as they are deployed responsibly. They can affect who is approved for credit and who sees advertisements for housing and mortgage loans. In short, they can help reduce the racial homeownership gap when the technology works as intended. Because credit unions support legislative and regulatory initiatives that promote the availability of credit to all creditworthy applicants, they recognize that responsible use of AI mandates compliance with the ECOA, Fair Housing Act, and existing applicable law. That said, credit unions and America's Credit Unions expect that legislators and regulators will weigh the regulatory burden on credit unions against the benefit to consumers when implementing new laws and regulations that govern the use of AI in housing. To do otherwise may chill technological progress and the benefits that may accrue to consumers through the responsible use of AI.

America's Credit Unions is committed to working with the appropriate financial regulatory agencies to ensure credit unions are able to innovate and use AI to help their members achieve financial well-being. On behalf of America's Credit Unions and the 140 million credit union members, thank you for holding this important hearing and considering our views on the subject.

Sincerely,

Jim Nussle, CUDE
President & CEO

cc: Members of the Subcommittee on Housing, Transportation, and Community Development