

October 12, 2022

Dr. Arati Prabhakar
Director, Office of Science and Technology
725 17th Street NW
Washington, DC 20502

Re: *A Blueprint for an AI Bill of Rights, “Algorithmic Discrimination” Protections*

Dear Dr. Prabhakar:

We read with interest the “Blueprint for an AI Bill of Rights”¹ released by the White House. One of the five core protections included in this blueprint calls for protections against algorithmic discrimination. The American Financial Services Association (AFSA)² shares the Biden Administration’s concern regarding racial discrimination, and our members have worked for decades to eliminate harmful bias and ensure fair access to consumer credit and financial services. However, the best way to protect consumers is to focus on the data that goes into the algorithm, not by hindering technological innovation that increases access to credit for all consumers.

The use of technology has had a positive effect on access to consumer credit. As Office of Science and Technology Policy Deputy Director for Science and Society Dr. Alondra Nelson noted, “Automated technologies are driving remarkable innovations,”³ and this rings true in the consumer credit industry. The Consumer Financial Protection Bureau (CFPB) reiterated this point, writing that using AI in the underwriting process “has the potential to expand credit access by enabling lenders to evaluate the creditworthiness of some of the millions of consumers who are unscorable using traditional underwriting techniques.”⁴

The use of AI to automate the underwriting process, expand fraud detection, and mitigate personal bias has expanded access to credit and significantly contributed to the financial well-being of those who would otherwise have limited access to financial services and products. In contrast, imposing burdensome and duplicative compliance burdens on lenders would stifle innovation, decrease credit access, and raise the cost of loans.

Algorithms have been characterized as “unaccountable,”⁵ but in the consumer credit industry, this could not be further from the truth. To foster equality in lending, unique anti-discrimination policies already regulate the

¹ Blueprint for an AI Bill of Rights: Making Automated Systems Work for the American People, October 4, 2022. <https://www.whitehouse.gov/ostp/ai-bill-of-rights/#discrimination>

² Founded in 1916, AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including traditional installment loans, mortgages, direct and indirect vehicle financing, payment cards, and retail sales finance.

³ FACT SHEET: Biden-Harris Administration Announces Key Actions to Advance Tech Accountability and Protect the Rights of the American Public. October 4, 2022. <https://www.whitehouse.gov/ostp/news-updates/2022/10/04/fact-sheet-biden-harris-administration-announces-key-actions-to-advance-tech-accountability-and-protect-the-rights-of-the-american-public/>

⁴ Innovation spotlight: Providing adverse action notices when using AI/ML models, Patrice Alexander Ficklin, Tom Pahl, and Paul Watkins, July 7, 2020. <https://www.consumerfinance.gov/about-us/blog/innovation-spotlight-providing-adverse-action-notice-when-using-ai-ml-models/>

⁵ FACT SHEET: Biden-Harris Administration Announces Key Actions to Advance Tech Accountability and Protect the Rights of the American Public. October 4, 2022. <https://www.whitehouse.gov/ostp/news-updates/2022/10/04/fact-sheet-biden-harris-administration-announces-key-actions-to-advance-tech-accountability-and-protect-the-rights-of-the-american-public/>

consumer credit industry, including, but not limited to, the Gramm-Leach-Bliley Act, the Equal Credit Opportunity Act, and the Fair Credit Reporting Act. These important laws protect consumer privacy, prohibit discrimination in credit transactions, and ensure the accuracy of credit reporting, and each apply to the use of algorithms.

AFSA appreciates the work that the Office of Science and Technology has engaged in to decrease discrimination in lending but decreasing the ability of financial institutions to use technology in their lending processes will only decrease their ability to lend. Should you need additional information or have any questions, please feel free to contact me at cwinslow@afsamail.org or (202) 776-7300.

Sincerely,



Celia Winslow
Senior Vice President
American Financial Services Association