



One Mission. Community Banks.

December 5, 2023

Shalanda D. Young  
Director  
Office of Management and Budget  
New Executive Office Building  
Washington, DC 20503

**RE: Request for Comments on Advancing Governance, Innovation, and Risk Management for Agency Use of Artificial Intelligence Memorandum; OMB-2023-0020**

Dear Director Young:

The Independent Community Bankers of America (“ICBA”)<sup>1</sup> is pleased to share feedback on the Office of Management and Budget’s (“OMB”) Proposed Memorandum for the Heads of Executive Departments and Agencies (“Proposed Memo”). The OMB’s Proposed Memo establishes new agency requirements and guidance for artificial intelligence (“AI”) governance, innovation, and risk management, including through specific minimum risk management practices for uses of AI that impact the rights and safety of the public.

**ICBA Comments**

Overall, ICBA believes that the Proposed Memo strikes the right balance in instructing agencies to promote the use of AI technologies within agencies while simultaneously ensuring that the rights of stakeholders and the public are maintained. With specific regard to the federal agencies that supervise and regulate community banks, ICBA believes that agency adoption of AI technologies can bring efficiency to supervision that would alleviate community bank burden, especially in the areas of data collection. However, as the Proposed Memo makes clear, it will be of paramount importance for federal banking agencies to protect the rights of community banks and their customers, including the security of their data.

**Requirement to Establish Chief AI Officer**

As required by President Biden’s October 30, 2023 Executive Order (the “AI Executive Order”), each agency must designate a Chief AI Officer (“CAIO”). The Proposed Memo directs CAIOs to work in close coordination with

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<sup>1</sup> The Independent Community Bankers of America® creates and promotes an environment where community banks flourish. ICBA is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education, and high-quality products and services. With nearly 50,000 locations nationwide, community banks constitute 99 percent of all banks, employ more than 700,000 Americans and are the only physical banking presence in one in three U.S. counties. Holding more than \$5.8 trillion in assets, over \$4.8 trillion in deposits, and more than \$3.5 trillion in loans to consumers, small businesses and the agricultural community, community banks channel local deposits into the Main Streets and neighborhoods they serve, spurring job creation, fostering innovation and fueling their customers’ dreams in communities throughout America. For more information, visit ICBA’s website at [www.icba.org](http://www.icba.org).

existing responsible officials and organizations within their agencies. In response to this proposed directive, ICBA believes that CAIOs should work closely with each banking agency's Chief Innovation Officer ("CIO"). While CAIOs will presumably be focused on internal agency uses of AI, CIOs are focused on working with external parties, including community banks, to develop guidance and regulations that enable bank usage of AI technologies.

Although it would benefit both agency and industry for CAIOs to collaborate with CIOs on AI technology, ICBA notes that this collaboration may no longer be possible as several banking agencies have deprioritized their Offices of Innovation. In some instances, the banking agencies have gone so far as to dismantle or unwind certain Office programs.

ICBA believes that, when fully empowered, the Offices of Innovation provided significant value in developing and facilitating policy-based solutions that nurture bank relationships with fintechs that develop technologies that banks offer customers, such as AI. These technologies are not typically developed in-house and require relationships with third-party experts. If the banking agencies were to re-empower Offices of Innovation, then ICBA believes that CAIOs would have a more fruitful mission in collaboration with CIOs.

### **Criticality of Security**

As the Executive Order and Proposed Memo both highlight, the use of AI provides new opportunities, but also introduces new risks. ICBA believes the banking agencies have a responsibility to ensure proper cyber and data security protection. This is particularly important in areas involving financial and personally identifiable information ("PII") and extends to AI.

Should the banking agencies use consumer PII or financial information as inputs into its AI systems, the use must be based around agreed upon public-private standards to ensure trust. The government has a responsibility to safeguard this information and provide the public with visibility into the business continuity, incident response, and other critical resiliency plans. This is particularly relevant in sectors with strict regulatory compliance on issues such as cybersecurity and data privacy, such as the financial services sector. Financial services companies, particularly banks, are subject to a myriad of regulation and guidance governing how they must protect PII. These include:

- Regulation P of the Gramm-Leach-Bliley Act ("GLBA")
- The Fair Credit Reporting Act ("FCRA")
- Interagency Guidelines Establishing Information Security Standards
- The Bank Service Company Act
- Interagency Guidance on Third-Party Relationships: Risk Management
- The FFIEC IT Examination Handbook
- Applicable state laws and regulations

These requirements are in place not only to ensure safe and responsible use of confidential consumer information, but to ensure public trust in critical institutions that drive the U.S. economy.

As OMB considers standards and safeguards for the use of AI within federal agencies, it is critical that they consider the great lengths the private sector goes to protect this information. If federal agencies use AI with information that banks or other regulated entities are legally required to protect through adherence to certain standards, then federal agencies using the information must use the same standards as a baseline of protection.

Without similar standards, any use of consumer PII or financial data in agency-run AI will negate the efforts of thousands of community banks and other financial institutions in securing that data.

When developing standards for AI across federal agencies, OMB should consider the different uses, different risks faced, and different risk appetites across various industries. No industry, and thus no federal agency, will have the same uses and risks to consider.

In the financial services industry, the private sector via the Financial Services Sector Coordinating Council (“FSSCC”) and the federal financial regulators, via the Federal and Banking Information Infrastructure Committee (“FBIIC”), work in close partnership with one another to enhance the resiliency of the sector to a myriad of threats. This unique partnership enables the sector to be a leader in the safe adaptation of new technologies.

For example, FSSCC and FBIIC have worked closely with Treasury on multiple workstreams related to the use of cloud services among the wide variety of financial services companies. These workstreams address critical issues, develop common definitions and lexicon, and consider other critical topics such as risk management and due diligence. These organizations have already begun work on AI and will continue to work closely to ensure solutions that meet both private and public sector needs are found. ICBA recommends the federal agencies look to partnerships such as this when considering models for the development of AI standards.

### **AI Use Case Inventories**

The AI Executive Order directs each agency to annually submit an inventory of its AI use cases to OMB and subsequently post a public version on the agency’s website. ICBA supports this provision, as it will provide transparency to the public in how agencies are using AI. It will also provide the ancillary benefit of providing a clearinghouse of ideas for other agencies to adopt.

Of possible use cases, ICBA is optimistic that federal banking agencies will use AI in supervisory technology (“SupTech”) that could reduce the burden of routine community bank reporting. Such a use case was explored in a Financial Stability Board white paper, which noted, “the use of SupTech could improve oversight, surveillance and analytical capabilities, and generate real time indicators of risk to support forward looking, judgement based, supervision and policymaking.”<sup>2</sup>

An example of a viable SupTech use case is the Rapid Phased Prototyping Initiative (“RPP”), introduced by the FDIC in 2021. The RPP was announced as a new and innovative approach to financial reporting, intended to streamline and limit the laborious and manual processes required by banks to complete the quarterly Call Report, a goal sought by ICBA for more than a decade.

The RPP initiative was designed to accelerate the adoption of modern technological solutions to help the FDIC receive, manage, and analyze data from individual institutions, particularly community banks, without increasing compliance burdens. The lessons learned from the program were intended to promote the safe and sound adoption of these technologies, helping banks and supporting consumers in the process. The use of AI technologies was expected to be incorporated into the final prototype.

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<sup>2</sup> “The Use of Supervisory and Regulatory Technology by Authorities and Regulated Institutions,” Financial Stability Board, Oct. 9, 2020, *available at*: <https://www.fsb.org/wp-content/uploads/P091020.pdf>.

If implemented, RPP would have been a paradigm of agency innovation that would have increased the efficacy and efficiency of FDIC's supervisory resources. Unfortunately, the agency scrapped the RPP program after a change in leadership. However, in light of this Proposed Memo, ICBA is hopeful that the FDIC, as well as other federal banking agencies, are motivated to reconstitute programs that nurture the development of AI SupTech, similar to RPP.

### **Conclusion**

ICBA welcomes OMB's work on this matter and appreciates the opportunity to provide comment. While Congress and this Administration are actively exploring issues related to the use of AI, ICBA will continue to look for opportunities to engage with policymakers on this important and growing topic. Should you have any further questions, please do not hesitate to contact me at [Lance.Noggle@icba.org](mailto:Lance.Noggle@icba.org).

/s/

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