STATE OF TENNESSEE

Office of the Attorney General

JONATHAN SKRMETTI
ATTORNEY GENERAL AND REPORTER

P.O. BOX 20207, NASHVILLE, TN 37202
TELEPHONE (615)741-3491
FACSIMILE (615)741-2009

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The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Submitted via www.regulations.gov

Re: Comment by State of Tennessee, Alabama, Arkansas, Florida, Idaho, Iowa, Louisiana, Mississippi, Montana, Nebraska, South Carolina, South Dakota, Utah, West Virgnia, and Virginia in Response to TREAS-DO-2024-0011-0001, Request for Information on Uses, Opportunities, and Risks of Artificial Intelligence in the Financial Services Sector

Dear Secretary Yellen,

We, the undersigned Attorneys General, enforce consumer protection and antitrust laws. These laws provide critical protection for consumers, and we have not hesitated to use them against financial services firms as necessary. As the use of artificial intelligence ("AI") becomes more widespread in the financial services sector, these laws will play an important role in ensuring robust competition and fair and honest treatment of consumers. Many attorneys general also have authority to criminally investigate and prosecute fraud and financial crime. We therefore bring an important practical perspective as enforcers of these laws, and we write to urge the Department of the Treasury ("Department") not to politicize its regulation of AI, create barriers to entry for innovative products that can benefit consumers and detect fraud, or attempt to preempt the state laws we use to protect consumers. Instead, the Department's focus should solely be on actual risks to financial reliability and consumer protection.

I. Financial Services Firms Are Integrating Artificial Intelligence Into Their Operations With Many Potential Benefits

Financial services firms are deploying artificial intelligence in several areas relevant to state law, including chatbots for consumer interactions; analyses of creditworthiness for lending, fraud, and financial crime detection; and investment management.

Citigroup's Global Perspectives & Solutions team identifies several of these AI applications in a June 2024 report. While the Citigroup report presents these applications as innovations that will be "used at scale in finance in the next couple of years," many key players have already implemented them in their operations.[1] The uses identified by Citigroup include: AI chatbots, which can answer customer questions and send alerts related to customers' accounts; AI programs designed to assist with computer programming and code generation; AI-powered transaction monitoring software that can detect suspicious transactions and identify potential financial crimes; AI programs trained to evaluate credit risk; and AI-powered software to assist with investment research and identify worthwhile investment opportunities.[2]

AI chatbots have the promise to improve banks' operations by enabling them to "anticipate their customers' financial behaviors and tailor services accordingly."[3] Bank of America's Erica chatbot represents one model currently in use.[4] According to a Bank of America press release, Erica is programmed to help customers monitor and manage their subscriptions, understand spending habits, stay informed of merchant refunds, stay on top of upcoming bills, and check their FICO score.[5] For more complicated queries, Erica can also direct customers to support specialists.[6] In June 2023, Erica surpassed 1.5 billion customer interactions with a total conversation time of over 10 million hours.[7] Other banks offer AI-powered chatbots too. Wells Fargo's chatbot Fargo allows customers to "get answers to their everyday banking questions on their smartphone," while Morgan Stanley's AI @ Morgan Stanley Assistant helps financial advisors access reports and relevant documents.[8] State consumer protection laws are well-positioned to remedy any actual harms to consumers from the use of chatbots. For example, deceptive practices committed by means of a chatbot would fall under the scope of state laws.

With respect to evaluating customers' credit risk, AI promises to expedite banks' credit processes. "By summarizing customer information (for example, transactions with other banks) to inform credit decisions, gen AI can help accelerate banks' end-to-end credit process. Following a credit decision, it can draft the credit memo and contract. Financial institutions are using the

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[1] Citi GPS: Global Perspectives & Solutions, *AI in Finance: Bot, Bank & Beyond*, Citigroup at 32 (Jun. 2024), https://ir.citi.com/gps/9j79xHIa-vfPi785TYiSciffO0j4I0D52fI9LrahsLZEo6MpT4aM7SpwSFagAL9CIukqn2fwiJ_GNvDsLy4b6XEjftdK1abu.

[2] *Id.*

[3] "Bank of America's Erica AI Surpassed 1.5 Billion Client Interactions: Here's What That Means for the Future of AI in Banking," Future Digital Finance, https://futuredigitalfinance.wbresearch.com/blog/bank-of-americas-erica-ai-surpassed-15-billion-client-interactions-heres-what-that-means-for-the-future-of-ai-in-banking.

[4] *Id.*

[5] "BofA's Erica Surpasses 1.5 Billion Client Interactions, Totaling More Than 10 Million Hours" of Conversations," Bank of America (Jul. 13, 2023), https://newsroom.bankofamerica.com/content/newsroom/press-releases/2023/07/bofa-s-erica-surpasses-1-5-billion-client-interactions--totaling.html.

[6] *Id.*

[7] *Id.*

[8] "Wells Fargo, Artificial Intelligence, and You," Wells Fargo (May 21, 2024), https://stories.wf.com/wells-fargo-artificial-intelligence-and-you; Jack Kelly, "How AI Is Growing Fast On Wall Street," Forbes (Apr. 23, 2024), https://www.forbes.com/sites/jackkelly/2024/04/23/how-ai-is-growing-fast-on-wall-street/.

tech to generate credit risk reports and extract customer insights from credit memos."[9] While major banks have yet to implement advanced AI programs in credit evaluation, a 2023 McKinsey roundtable with chief credit risk officers found that 42% of participants had plans to incorporate AI in the credit application process.[10] The focus of enforcement should again be deceptive acts and practices or harms to competition. Heavy-handed regulation should not be used to harm the potential of innovation to expand access to credit, especially if the regulation is directed at injecting ideological considerations into what should be a neutral process.

Banks have also made more concrete steps in implementing AI tools to assist investment managers. In 2023, JP Morgan filed a trademark application for its IndexGPT technology, an AI tool designed to "select investments for customers."[11] In June 2024, *The Wall Street Journal* reported that Goldman Sachs "is also in earlier stages of rolling out an AI tool that translates documents into other languages and an application that summarizes proprietary research to provide insights to advisers."[12] Similarly, Deutsche Bank announced a partnership with NVIDIA in 2022 to develop AI technology to help "traders to manage risk and run more scenarios faster."[13] The potential of AI to improve the investment selection process cautions against excessive regulatory interventions that could stunt the development of these tools or improperly distort investor decision-making.

Banks have also used AI to bolster their fraud and financial crime-detection capabilities. According to Charles Schwab CEO Walter Bettinger, the bank has used AI for "security and fraud detection" for years.[14] In April 2024, JP Morgan CEO Jamie Dimon similarly revealed that JP Morgan has been "actively using predictive AI and ML for years — and now has over 400 use cases in production in areas such as marketing, fraud and risk."[15] Other banks, such as Deutsche Bank and Barclays, have also embraced AI security programs.[16] AI thus plays a significant role in bank security and crime detection, benefitting both banks and consumers. Anyone who has dealt with the annoyance and inconvenience of identity theft, never mind the more serious financial consequences that can attend the crime, appreciates every effort that limits the ability of scammers to succeed. As attorneys general, we often work in partnership with financial

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[9] Rahul Agarwal, Andreas Kremer, Ida Kristensen, and Angela Luget, "How generative AI can help banks manage risk and compliance," McKinsey & Company (Mar. 1, 2024), https://www.mckinsey.com/capabilities/risk-and-resilience/our-insights/how-generative-ai-can-help-banks-manage-risk-and-compliance#.

[10] "Embracing generative AI in credit risk," McKinsey & Company (Jul. 1, 2024), https://www.mckinsey.com/capabilities/risk-and-resilience/our-insights/embracing-generative-ai-in-credit-risk.

[11] Jack Kelly, "How AI Is Growing Fast On Wall Street," Forbes (Apr. 23, 2024), https://www.forbes.com/sites/jackkelly/2024/04/23/how-ai-is-growing-fast-on-wall-street/; Trademark/Service Mark Application for IndexGPT, U.S. Patent and Trademark Office, https://tsdr.uspto.gov/documentviewer?caseId=sn97931538&docId=APP20230515101121#amp%3Bamp%3Bpage%5B%5D=1&amp%3Bamp%3Bpage%5B%5D=2&amp%3BdocIndex%5B%5D=1&amp%3BdocIndex%5B%5D=1&amp%3Bpage=2&docIndex=4&page=1.

[12] Isabelle Bousquette, "Goldman Sachs Deploys Its First Generative AI Tool Across the Firm," Wall Street Journal (Jun. 27, 2024), https://www.wsj.com/articles/goldman-sachs-deploys-its-first-generative-ai-tool-across-the-firm-cd94369b#.

[13] Senthuran Shanmugasivam, "Deutsche Bank Partners with NVIDIA to embed AI into Financial Services," Deutsche Bank (Dec. 7, 2022), https://www.db.com/news/detail/20221207-deutsche-bank-partners-with-nvidia-to-embed-ai-into-financial-services.

[14] Rocio Fabbro, "AI is becoming a big deal for big banks. What the CEOs of JPMorgan, Goldman Sachs and more are saying," Quartz (Apr. 22, 2024), https://qz.com/ai-banks-jpmorgan-chase-goldman-sachs-bank-of-america-1851423099.

[15] Jamie Dimon, "Chairman and CEO Letter to Shareholders," JP Morgan (Apr. 8, 2024), https://www.jpmorganchase.com/ir/annual-report/2023/ar-ceo-letters.

[16] "How AI is Changing Banking," Deutsche Bank, https://www.db.com/what-next/digital-disruption/better-than-humans/how-artificial-intelligence-is-changing-banking/index?language_id=1; "From intelligence to ability: how Barclays is harnessing AI," Barclays (Jan. 8, 2024), https://home.barclays/news/2024/01/how-Barclays-is-harnessing-AI/.

institutions to stop fraud and financial crime. We appreciate the significant law enforcement benefit of detecting financial fraud more effectively with AI.

Finally, banks have begun rolling out AI programs to assist programmers with coding. Goldman Sachs announced in June 2024 that it "will finish rolling out its first generative artificial intelligence tool—for code generation—to thousands of developers across the company by the end of the month."[17] Likewise, in its 2023 Annual Report, Bank of America revealed that it was "piloting the use of AI in computer programming, to improve how [it does its own] coding."[18] As AI programming assistants become more prevalent in the financial sector, they promise to "help streamline coding processes by automating repetitive tasks, optimizing basic coding, and accelerating development cycles."[19]

II. The Department Should Not Use AI Regulations to Further Non-Financial Political Agendas or Give Cover to Companies Seeking to Discriminate Based on Political or Other Non-Financial Bases

A. The Administration Has A Troubling History of Politicizing Financial Oversight to Advance Non-Financial Goals Such as Environmental Regulation and the Persecution of Disfavored Political Groups

During its nearly four years in office, the Biden-Harris Administration has repeatedly tried to use the levers of power to advance non-financial, activist goals via its power over the financial sector. It should not continue this pattern of activity in its AI regulation. As this revolutionary technology begins to take off, the ham-fisted efforts of narrow-minded ideologues to shackle AI to a political agenda could permanently harm American competitiveness and deprive our citizens of extraordinary prosperity.

One prime example of abusive regulation is the Administration's whole-of-government climate approach and the Department's involvement in that effort. In January 2021, the Administration issued an executive order establishing that climate risk is financial risk.[20] As part of that approach, in 2023, Secretary Yellen encouraged financial institutions to follow the prescriptions of the Glasgow Financial Alliance for Net Zero ("GFANZ").[21] This Michael Bloomberg-backed group does not seek to maximize shareholder value or otherwise promote economic well-being, but instead seeks to impose and environmental activist agenda through coordinated actions across the financial sector. It attempts to unite the financial sector in a collusive effort to circumvent our democratically elected policymakers and establish a radical environmental policy without any accountability to the public. Secretary Yellen's actions can only

[17] Isabelle Bousquette, "Goldman Sachs Deploys Its First Generative AI Tool Across the Firm," Wall Street Journal (Jun. 27, 2024), https://www.wsj.com/articles/goldman-sachs-deploys-its-first-generative-ai-tool-across-the-firm-cd94369b#.

[18] *Annual Report 2023*, Bank of America at 6, https://d1io3yog0oux5.cloudfront.net/_799541fd39ec4f64f8d484eb95b2c7f8/bankofamerica/db/867/10038/annual_report/BAC+2023+Annual+Report.pdf/.

[19] Citi GPS: Global Perspectives & Solutions, *AI in Finance: Bot, Bank & Beyond*, Citigroup at 33 (Jun. 2024), https://ir.citi.com/gps/9j79xHIa-vfPi785TYiSciffO0j4I0D52fI9LrahsLZEo6MpT4aM7SpwSFagAL9CIukqn2fwiJ_GNvDsLy4b6XEjftdK1abu.

[20] Executive Order on Tackling the Climate Crisis at Home and Abroad (Jan. 27, 2021), https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/

[21] Michael Bloomberg, *Secretary Janet Yellen Introduces U.S. Treasury Department's New Net-Zero Effort* (Sept. 21, 2023), https://www.youtube.com/watch?v=lKqxkTs0f0k (Secretary Yellen speaking at the Bloomberg Transition Finance Action Forum).

be interpreted as wittingly or unwittingly providing cover for this potentially anti-competitive activity.

A respected Stanford professor has called out the Administration's "climate-related financial risk" assertions and showed that it has not demonstrated any serious threat to the financial system.[22] He noted that "[f]inancial regulators may only act if they think financial stability is at risk," but "there is absolutely nothing in even the most extreme scientific speculations" to support the type of risk that would allow financial regulators to intervene.[23]

A recent stress test by the Federal Reserve confirmed that the Biden-Harris Administration's claims that climate risk is financial risk are false and that climate change is not a material financial risk to banks. The Federal Reserve created scenarios through which banks must test for the effects of "physical" and "transition" climate risks. The banks were required to simulate the effect of a once-in-two-centuries hurricane smashing into the heavily populated northeast United States with no insurance coverage available to pay for the damage, and to simulate a scenario in which "stringent climate policies are introduced immediately" without any chance for banks to prepare for such policies, along with rapidly rising carbon prices.[24] No significant effect was demonstrated. The probability of default on loans increased by only half a percentage point or less in this modeling.[25] In contrast, federal bank stress tests involving a severe recession have resulted in probabilities of default jumping by 20 to 40 times that amount or more.[26]

A second example is the recent effort to de-bank groups whose political beliefs and activities differ from the Administration's. Attorneys General recently wrote to you in opposition to the Administration's claim that state laws preventing de-banking are a "national security threat."[27] These actions appear to echo the discredited actions of Operation Choke Point, which the DOJ itself admitted was a "misguided initiative."[28] In contrast, in January 2021, the Office of the Comptroller of the Currency issued a rule requiring large banks to provide fair access to bank services, capital, and credit "quantified and documented failure to meet quantitative, impartial risk-based standards."[29]

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[22] John H. Cochrane, A Convenient Myth: Climate Risk and the Financial System, National Review (Nov. 17, 2021), https://www.nationalreview.com/2021/11/a-convenient-myth-climate-risk-and-the-financial-system/
[23] *Id.*
[24] Federal Reserve, Pilot Climate Scenario Analysis Exercise – Participant Instructions at 13-14, 23 (Jan. 2023), https://www.federalreserve.gov/publications/files/csa-instructions-20230117.pdf
[25] Federal Reserve, Summary of Participants' Risk-Management Practices and Estimates at 25, 33 (May 2024), https://www.federalreserve.gov/publications/files/csa-exercise-summary-20240509.pdf.
[26] See Greg Hopper, Bank Policy Institute, The Fed Pilot Climate Scenario Analysis Exercise: A Review at 18, 21 (May 22, 2024) https://bpi.com/the-fed-pilot-climate-scenario-analysis-exercise-a-review/; Federal Reserve, 2024 Federal Reserve Stress Test Results (June 2024), https://www.federalreserve.gov/publications/files/2024-dfast-results-20240626.pdf.
[27] See Office of the Florida Attorney General, *Attorney General Moody Leads Multistate Opposition to Biden-Harris Administration's Latest Fearmongering Attempt* (Aug. 1, 2024), https://www.myfloridalegal.com/newsrelease/attorney-general-moody-leads-multistate-opposition-biden-harris-administrations-latest.
[28] Victoria Guida, *Justice Department to end Obama-era 'Operation Choke Point,'* Politico (Aug. 17, 2017), https://www.politico.com/story/2017/08/17/trump-reverses-obama-operation-chokepoint-241767.
[29] Office of the Comptroller of the Currency, *OCC Finalizes Rule Requiring Large Banks to Provide Fair Access to Bank Services, Capital, and Credit* (January 2021), https://www.occ.gov/news-issuances/news-releases/2021/nr-occ-2021-8.html.

B. The Department Should Not Misuse AI Regulations to Promote the Administration's Ideological Agenda

In enacting AI-related regulations, the Department must not depart from its narrow authorization "to maintain a strong economy and create economic and job opportunities by promoting the conditions that enable economic growth and stability at home and abroad, strengthen national security by combating threats and protecting the integrity of the financial system, and manage the U.S. Government's finances and resources effectively."[30] Reaching beyond the confines of this statutory mandate would illegally exceed the Department's authority and run afoul of the major questions doctrine.[31]

In particular, the Department should not use AI-related regulations to promote the "ambitious" and non-financial "whole-of-government equity agenda" advanced by the Administration.[32] Over the past four years, the Administration has reinforced a commitment to promote "equity" using all departments and agencies of the government, without regard for what Congress has authorized or what the Constitution allows. Upon signing his Executive Order on Racial Equity, President Biden declared that "the issue of racial equity [is] not just an issue for any one department of government" but "the business of the whole of government."[33]

In promoting equity, the Biden-Harris Administration does not seek simply to eliminate discrimination and guarantee citizens equal opportunity - it seeks to coerce equal outcomes. As Vice President Harris explained at a September 2023 event, "We must understand what are disparities and then accommodate and adjust for those disparities if we want equal outcomes."[34] The laws empowering executive agencies do not provide this sweeping authority, especially in light of the Supreme Court's recent ruling in *Students for Fair Admission v. Harvard*, the Administration's goal raises serious constitutional concerns. In *Students for Fair Admission*, the Supreme Court held that "[e]liminating racial discrimination means eliminating all of it."[35] As such, treating citizens differently based on the color of their skin to force equal outcomes across racial groups violates constitutional protections and federal antidiscrimination laws.[36] Despite this dispositive legal obstacle, the Administration continues to encourage governmental departments to apply unlawful racial classifications to impose equal outcomes.

We are disturbed that the Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence embraces the Administration's unconstitutional commitment to dividing Americans by race. The Executive Order declares: "Artificial Intelligence policies must be consistent with my Administration's dedication to advancing equity and civil

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[30] U.S. Department of the Treasury, "Role of the Treasury," https://home.treasury.gov/about/general-information/role-of-the-treasury.
[31] *See, e.g., W. Virginia v. Env't Prot. Agency*, 597 U.S. 697, 721-24 (2022).
[32] Executive Order 13985, Jan 20, 2021.
[33] The White House, *Remarks by President Biden at Signing of an Executive Order on Racial Equity* (2021), https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/01/26/remarks-by-president-biden-at-signing-of-an-executive-order-on-racial-equity/.
[34] The White House, *Remarks by Vice President Harris in a Moderated Conversation with Terrence J Kicking off the National "Fight for Our Freedoms" College Tour* (2023), https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/09/14/remarks-by-vice-president-harris-in-a-moderated-conversation-with-terrence-j-kicking-off-the-national-fight-for-our-freedoms-college-tour/.

[35] *Students for Fair Admissions v. Harvard*, 600 U.S. 181, 206 (2023).
[36] *See, e.g.*, Clara Hudson, *Firms From KKR to Coors Flag DEI as Business, Legal Risk*, Bloomberg Legal News (March 11, 2024), https://news.bloomberglaw.com/daily-labor-report/firms-from-kkr-to-coors-flag-dei-as-a-risk-to-their-bottom-lines.

rights."[37] The Administration's policy is illegal and the attempt to force AI development to follow suit means our innovators will be distracted by litigation at a time when they should be focused on innovation.

We already have a real-world example of what happens when an obsession with race dumbs down AI: Google's humiliating rollout of its Gemini product, which was *literally incapable of depicting white people* as a result of the company's commitment to the same equity principle the Administration now seeks to impose.[38] The Administration's equity principle forced on financial AI will cripple American innovation and ultimately wound our prosperity. The Department should not rely on unconstitutional racial classifications and should not prioritize equity-related goals that extend beyond its explicit financial mission.

In addition, the Department should not use AI-related regulations to further the Administration's environmental justice agenda. The Department is not an environmental regulator and is not authorized to act as one. In his Executive Order on Revitalizing Our Nation's Commitment to Environmental Justice for All, President Biden announced, "It is the policy of my Administration to pursue a whole-of-government approach to environmental justice."[39] President Biden has also committed to "achieving a net-zero emissions economy by 2050."[40] Furthering these goals falls outside of the scope of the Department's authority, and it is inappropriate for the Department to consider in drafting AI-related regulations. Any attempt to impose radical environmental standards through technological regulation almost certainly runs afoul of the major questions doctrine.[41] This is best illustrated by the recent bank stress test, *see* part II(A), *supra*, which showed that the longstanding claim of environmental activists, that climate risk is financial risk, lacks substantiation. The stress test showed that climate risks are not material to financial outcomes. Environmental regulation in the guise of financial regulation violates statutory and constitutional law and the Department should not attempt it.

Finally, the Department should not be using AI regulation to facilitate debanking of the Biden-Harris Administration's disfavored opponents, such as church missionaries, gun manufacturers, cryptocurrency entrepreneurs, and other groups engaged in lawful activities. *See* Part II(A), *supra*. This is an improper use of administrative power and an improper circumvention of the democratic process. Some of these activities are constitutionally protected, and states have enacted laws such as the Second Amendment Financial Privacy Act to stop international organizations from targeting firearm retailers.[42] But even as to other activities, AI regulation of financial services firms is not a proper way to backdoor non-financial political goals. The Department must be cognizant of the potential for these regulations to both persecute dissidents and to provide cover for banks' persecution of dissidents in the exercise of their First Amendment

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[37] Executive Order 14110 § 2(d).
[38] Nikolas Lanum, *Google apologizes after new Gemini AI refuses to show pictures, achievements of White people*, FOX Business (Feb. 21, 2024) https://www.foxbusiness.com/media/google-apologizes-new-gemini-ai-refuses-show-pictures-achievements-white-people
[39] Executive Order 14096 § 1.
[40] The White House, *President Biden's Historic Climate Agenda*, https://www.whitehouse.gov/climate/.
[41] *See West Virginia v. EPA*, 597 US 697 (2022).
[42] *See, e.g.*, Tennessee Attorney General's Office, *AG Skrmetti Warns Financial Institutions to Fully Comply with the Tennessee Second Amendment Financial Privacy Act* (June 27, 2024), https://www.tn.gov/attorneygeneral/news/2024/6/27/pr24-53.html.

rights. State Treasurers have recently written to Bank of America regarding concerns over debanking.[43]

The American economy has been the envy of the world in large part because we have a stable, reliable, neutral financial infrastructure that allows many people to come together in mutually beneficial commerce regardless of their differences. The government keeps its thumb off the scales and the people prosper. When the neutrality of the financial infrastructure is compromised, the prosperity evaporates. The imposition of ideological litmus tests on financial interactions is the first step toward a totalitarian social credit regime. Modern technology creates unprecedented opportunities for oppression and at this inflection point, we must be particularly careful about protecting the liberties to which our nation is dedicated.

III. The Department Should Also Focus on the Effects of its Regulation on Competition and Should Not Attempt to Preempt State Laws Protecting Competition and Consumers

The Department should consider the effect regulations would have on competition in the AI and Financial Services sectors. History reveals that regulations (intentionally or not) can serve to entrench incumbents and prevent new entrants from emerging. For example, the Sarbanes-Oxley Act, while aimed at increasing transparency among public corporations, hurt smaller community banks' ability to compete with their larger, more established counterparts. As the American Electronics Association reported, "For multi-billion dollar companies, the cost [of complying with Sarbanes-Oxley] [ran] at approximately 0.05 percent of revenue, but for small companies with revenues below $20 million, the costs [could] rapidly approach three percent of revenue."[44] As such, the regulations imposed by the Sarbanes-Oxley Act "resulted in costly, burdensome and likely unintended consequences for community banks" and hurt competition in the banking industry.[45] In an area like artificial intelligence that could have a huge impact on a company's ability to compete, it is imperative that the Department avoid entrenching incumbents through regulation. The Department should therefore give serious consideration to the impact of its regulations on smaller market participants.

The Department should also craft regulations that work in tandem with state laws and should avoid pre-empting state enforcement. Over the past few years, states have taken the lead in holding big tech companies accountable for their actions. On August 5, the states and the U.S. Department of Justice achieved a landmark ruling from the district court against Google.[46] As another example, in October 2023, forty-two state attorney generals sued Meta for "violating a range of state-based consumer protection statutes, as well as a federal children's privacy law known as COPPA that prohibits companies from collecting the personal information of children under 13 without a parent's consent."[47] It is widely recognized that the state-federal collaborative

[43] Letter to Brian Moynihan, CEO of Bank of America (April 18, 2024), https://sfof.com/wp-content/uploads/2024/04/SFOF_BoA_Letter.pdf

[44] *Sarbanes-Oxley Section 404: The 'Section' of Unintended Consequences and Its Impact on Small Business*, American Electronics Association (Feb. 2005), https://www.sec.gov/news/press/4-497/wtarchey3846.pdf.

[45] Stephen Falanga, "Sarbanes-Oxley Impact On Banks Under Review," Corporate Council Business Journal (Jul. 1, 2006), https://ccbjournal.com/articles/sarbanes-oxley-impact-banks-under-review.

[46] *See* Tennessee Attorney General's Office, Tennessee Scores Big Win in Bipartisan Lawsuit Against Google (Aug. 5, 2024), https://www.tn.gov/attorneygeneral/news/2024/8/5/pr24-59.html.

[47] Brian Fung, "Dozens of states sue Instagram-parent Meta over 'addictive' features and youth mental health harms," CNN (Oct. 24, 2023), https://www.cnn.com/2023/10/24/tech/states-sue-instagram-parent-meta/index.html.

relationship has been a key factor in U.S. competition enforcement.[48] State attorneys general play a critical role in enforcing state and federal laws against big tech companies. As the Department drafts regulations for AI companies, it should avoid pre-emptying state oversight of financial services companies, and should instead protect the states' role as co-equal enforcers of consumer privacy, consumer protection, and antitrust laws.

CONCLUSION

Thank you again for the opportunity to provide comments in response to these timely questions. We look forward to reviewing any recommendations or proposals developed in response to this request for information.

Sincerely,

Jonathan Skrmetti
Tennessee Attorney General and Reporter

Steve Marshall
Alabama Attorney General

Raúl Labrador
Idaho Attorney General

Tim Griffin
Arkansas Attorney General

Brenna Bird
Iowa Attorney General

Ashley Moody
Florida Attorney General

Liz Murrill
Louisianna Attorney General

[48] Rebecca Klar, "How state attorneys general are leading the fight against Big Tech," The Hill (Sept. 17, 2022), https://thehill.com/policy/technology/3646920-how-state-attorneys-general-are-leading-the-fight-against-big-tech/.

Lynn Fitch
Mississippi Attorney General

Austin Knudsen
Montana Attorney General

Mike Hilgers
Nebraska Attorney General

Alan Wilson
South Carolina Attorney General

Marty Jackley
South Dakota Attorney General

Sean Reyes
Utah Attorney General

Jason S. Miyares
Virginia Attorney General

Patrick Morrisey
West Virginia Attorney General