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**RE: Comments on the Request for Information on Uses, Opportunities, and Risks of Artificial Intelligence in the Financial Services Sector**

Dear Deputy Assistant Secretary Quick and Director Kim,

The National Multifamily Housing Council (“NMHC”) and the National Apartment Association (“NAA”)<sup>1</sup> value the opportunity to provide these comments in response to the Treasury Department’s Request for Information on Uses, Opportunities, and Risks of Artificial Intelligence in the Financial Services Sector. We commend Treasury’s efforts to solicit feedback from a wide range of stakeholders as it examines the risks and benefits of rapidly evolving artificial intelligence technologies in financial services applications, including those that impact the rental housing market and ultimately our nation’s renters.

**Background**

Rental housing providers use emerging technologies, like Artificial Intelligence (AI), to reshape business operations, improve housing affordability and benefit millions of American renters. While commonly perceived to be new technologies, AI and related technologies in rental housing have already led to significant gains in meeting resident expectation and demand. Applications of this technology continue to grow rapidly but, to date, include virtual touring, enhanced resident screening and leasing, home automation, predictive maintenance, and even improved property level climate resilience.

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<sup>1</sup> For over 25 years, NMHC and NAA have partnered to provide a single voice for America's apartment industry. Our combined memberships are engaged in all aspects of the apartment industry, including ownership, development, management, finance, and suppliers partners/service providers. NMHC represents the principal officers of over 1,500 firms that own, develop, manage, and finance apartments. As a federation of more than 141 state and local affiliates, NAA encompasses over 96,000 members and more than 12 million apartment homes globally. The apartment industry today plays a critical role in housing this nation's households by providing apartment homes to 40.1 million residents, contributing \$3.4 trillion annually to the economy while supporting 17.5 million jobs.

These tools offer benefits to housing providers and residents alike, driving modernization of historic practices forward and maximizing operational efficiency and improving housing outcomes. They are also subject to robust internal controls, existing legal protections, and regulatory requirements at the state and federal level that should be considered before overlaying any additional regulations.

## **Benefits of AI for Residents, Operators, Providers and Others**

Below are some examples of how stakeholders in the multifamily space are utilizing AI and other technologies to improve operations and enhance renters' experiences:

- **Housing Developers** are using technology in critical ways to build and rehabilitate rental properties. A growing number of AI enabled platforms are cutting costs by automating design and planning, and some are now even using AI to identify opportunities to develop in areas of need with favorable zoning and land use policies. Both are critical issues as we continue to work towards improved housing affordability, equity, and opportunity.
- **Housing Operators** are using AI enabled platforms to overcome labor market challenges, improve the accuracy of and reduce bias in resident screening, and even identify cases of fraud in the application and leasing process to protect the financial viability of the property. AI enabled screening processes and machine learning are aiding in efforts to protect the financial health of properties and their long-term viability. Importantly, these tools also help reduce foreseeable risks to community residents and employees. Their use in the provision of positive rental payment reporting services can also benefit consumers who pay their rent on time as it enables housing operators to reliably report the information to the major credit bureaus to boost renters' credit scores.
- **Housing Technology Suppliers** are the backbone of modern multifamily property operations. From the leasing office to managing a network of renter centric PropTech platforms, solutions are being deployed to solve some of our most stubborn housing challenges like increasing responsiveness to applicant inquiries and follow-up with residents, improving sustainability and resilience, providing enhanced security for residents and communities, and driving operational costs down through predictive maintenance.
- **Housing Owners and Financiers** are leveraging cost saving technology platforms to improve efficiencies, underwrite lending, identify investing opportunities to meet growing rental demand and work towards improving housing affordability. Through technology, owners can more quickly reallocate funding to drive production and preservation of critically needed rental housing. Even further, owners can deliver tech driven amenities, service and solutions that residents want and increasingly demand.

As evidenced above, housing providers are turning to these new AI tools to combat rising operational threats that are difficult to address using traditional methods. When implemented properly, these technologies can greatly assist with management and other housing-related obligations and ensure residents receive the best living experience possible.

The rise in fraud in the application and leasing process presents a notable case study on the benefits of AI. NMHC and NAA surveys<sup>2</sup> and reports<sup>3</sup> have found staggering increases of application fraud. A vast majority of respondents (93.3%) experienced fraud in the past twelve months and most also (70.7%) reported experiencing an increase in fraudulent applications and payments where the person utilized fraudulent documentation, financial statements and even identities. Individuals who submit fraudulent applications and subsequently fail to pay rent account for roughly 1 in 4 (23.8%) of eviction filings. This also drives up housing costs broadly due to nonpayment, with apartment owners, developers and managers forced to write off an average of roughly \$1 million in bad debt stemming from nonpayment due to fraudulent applications. By integrating AI technologies into the screening process, housing providers are pursuing new avenues to better identify and combat application fraud. Over time, this will reduce evictions, lower costs, and prevent renters from fraudulently securing unsustainable leases that result in bad debt.

Similarly, underwriting is a critical part of the lending process, and its accuracy is highly dependent on the quality of the available information. Incorporating AI enhances housing owners' and financiers' ability to effectively underwrite lending and ultimately improve housing supply and lower housing costs as a result.

In addition, empirical evidence suggests that while AI systems are far from perfect, they appear to result in less bias than human beings and may be taught to avoid bias, including in underwriting. For example, renewing or enforcing leases, determining apartment rental pricing, screening applicants for rental housing and taking other resident-facing actions can be time-consuming, costly and inconsistent, despite the best efforts of property owners and managers. Some housing providers use, or are considering using, technology to address these issues that arise within their own communities. Industry practices include providing for human, individualized oversight of decisions recommended by AI systems so that the automated recommendation is just one component in a process that gives humans the best information on which to make a decision.

## **Consumer Data and the Need for Federal Privacy Protections**

The relationship between the resident and the housing provider may span years and involve the collection and use of various types of information. Consumer data contained in screening reports and held by property managers and their service providers is crucial in accounting for rental history, tenure and payment data, which make up an important part of a resident's profile. These data points can also serve as tools to improve a resident's housing opportunities in the future. Rental housing owners and operators, and their service providers, rely heavily on highly sensitive, personal data about apartment applicants, residents and employees to run their day-to-day business and effectively integrate new technologies into their operations. Given the sensitivity of the information that rental housing operators rely on and the ever-expanding cyber threat landscape we face, our industry has placed a high priority on strengthening defenses against vulnerabilities and protecting sensitive data and consumer privacy.

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<sup>2</sup> National Multifamily Housing Council, "NMHC Pulse Survey: Analyzing the Operational Impact of Rental Application Fraud and Bad Debt," <https://www.nmhc.org/research-insight/research-report/nmhc-pulsesurvey-analyzing-the-operational-impact-of-rental-application-fraud-and-bad-debt>.

<sup>3</sup> National Apartment Association, "Synthetic Fraud: How to Identify, Respond To & Prevent It," <https://www.naahq.org/synthetic-fraud>.

To effectively regulate AI and emerging technologies used by the rental housing industry and beyond, NMHC and NAA strongly believe that it is necessary to first establish a comprehensive federal data privacy standard, and we hope to continue working with Congress and the Administration to ensure that any legislation or regulation recognizes the unique nature and needs of the rental housing industry while ensuring the data that our members collect, use, and maintain is secure.

### **Industry-Driven Efforts and Existing State and Federal Protections are Sufficient to Protect Consumers**

Rental housing providers have worked to develop robust internal compliance plans and provide appropriate guardrails around their uses of AI, recognizing the key role these protections play in ensuring continued positive outcomes for all impacted parties. NMHC and NAA have been at the forefront of helping rental housing providers navigate new technology by facilitating the creation of educational resources for our members. NMHC and NAA members have also acknowledged the need for continual, internal review as users of third-party tools to ensure that both business operations and resident impacts are understood, and negative outcomes are mitigated.

#### *Existing Federal Regulations Provide Strong Consumer Protection*

Because the relative availability of AI systems has changed recently, the public impression is that the issues are also new, giving the impression that new rules and regulations are necessary to deal with them. This is not the case.

The current legal landscape provides strong protection against risks posed by AI, machine learning and algorithmic decision making. Various federal statutes already apply to AI applications with impacts on housing providers and renters. For example, the U.S. Department of Housing and Urban Development (HUD) and Department of Justice (DOJ) enforce the Fair Housing Act (FHA) and similar laws, and the Federal Trade Commission (FTC) has general authority to regulate potentially unfair and deceptive trade practices. Additionally, the Consumer Financial Protection Bureau (CFPB) has rulemaking and enforcement responsibility under the Fair Credit Reporting Act (FCRA). Each of these agencies has taken actions – ranging from joint statements to requests for public input and enforcement actions, among other efforts – under their existing authorities to ensure consumer protections are applied to AI and other emerging technologies.

As policymakers consider AI developments, we urge that any efforts to regulate these products and services should acknowledge the end-user as beyond the scope of liability. This is important to ensure that future regulations do not unnecessarily stifle innovation or undermine the pro-consumer and pro-housing benefits new technologies bring to bear. Further, incorporating safe harbors into future approaches is a proven method for providing the industry with the flexibility necessary to continue innovating as technologies evolve.

### **Conclusion**

NMHC and NAA appreciate the opportunity to provide Treasury with information on the industry's use of AI. It is critical that any future regulatory efforts continue to promote principles that prioritize data integrity, mitigate bias, and acknowledge the legitimate business purposes for technology. We are committed to working with policymakers and regulators on these emerging

technologies while continuing to lead on industry best-practices for their adoption. If we can be of any assistance, please do not hesitate to contact us.

Sincerely,



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NMHC



Bob Pinnegar  
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