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July 13, 2026

The Honorable Philip J. Weiser
Attorney General
Colorado Department of Law
Ralph L. Carr Colorado Judicial Center
1300 Broadway
Denver, CO 80203

Re: Comments on the Pre-Rulemaking Considerations Document for the Colorado Automated Decision-Making Technology Act (SB 26-189)

Dear Attorney General Weiser:

The Securities Industry and Financial Markets Association[1] ("SIFMA") appreciates the opportunity to respond to the Colorado Department of Law's ("Department") Pre-Rulemaking Considerations Document (the "Considerations Document") regarding the Colorado Automated Decision-Making Technology Act (the "Act"). The Act directs the Attorney General to adopt implementing regulations, and the Considerations Document specifically invites input on provisions best addressed through generally applicable rules, sector-specific guidance, and clarification of statutory ambiguities. SIFMA supports the Attorney General's stated commitment to clarity, efficient and expeditious compliance, interoperability with analogous state and federal frameworks, and ensuring that innovation is not unduly burdened.

SIFMA is a national trade association representing over 350 large, medium, and small broker-dealers, investment banks and asset managers, many of whom have a strong presence in Colorado. In fact, almost 113,000 people in the state work in the finance and insurance industries, more than 26,700 of them work at securities firms, and 59 broker-dealer main offices call Colorado home.[2]

A. Executive Summary

SIFMA's comments are limited to matters the Attorney General can address through rulemaking and regulatory guidance, consistent with the statutory text, in

[1] SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's one million employees, we advocate on legislation, regulation and business policy affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency.

[2] Capital Markets in Colorado, https://states.sifma.org/#state/co.

support of the five principles identified in the Considerations Document. SIFMA believes that the Department should consider the following when promulgating rules under the Act:

- Clarify that covered Automated Decision-Making (ADMT) is limited to technology used to make, replace, or materially drive a final Consequential Decision, and that an ADMT output does not "Materially Influence" a Consequential Decision where a qualified human reviewer meaningfully considers and can override the output. Provide objective indicators distinguishing covered ADMT from operational, fraud-prevention, cybersecurity, compliance, and workflow functions;

- Clarify that "Consequential Decision" means the final decision affecting access to, eligibility for, pricing of, terms of, or continuation of a covered product, service, benefit, or opportunity, and does not include preliminary triage, quality review, fraud alerts pending investigation, document processing, or internal operational support;

- Issue financial-services-specific guidance recognizing existing supervisory, privacy, cybersecurity, fair lending, adverse action, complaint-handling, vendor oversight, and other sector-specific frameworks based on the Gramm-Leach Bliley Act ("GLBA"), Fair Credit Reporting Act ("FCRA"), Equal Credit Opportunity Act ("ECOA"), Bank Secrecy Act and anti-money laundering ("AML") or other sector specific laws, may satisfy overlapping ADMT requirements where they provide substantially similar consumer protections;

- Promote standardized disclosures, model notices, and safe harbors for adverse outcome and consumer-rights notices to avoid duplicative or inconsistent disclosures that could create UDAP/UDAAP-type consumer confusion, particularly where a consumer already receives an adverse action notice under the ECOA and FCRA;

- Establish a pre-use notice delivery timing at or before the point of collection and permit consolidated ADMT notices, consistent with other applicable ADMT regulations;

- Establish consumer-rights request response timeframes that include a 10-day acknowledgment and a 45-day final response;

- Confirm that compliance with federal language and accessibility laws satisfies the Act's notice-accessibility expectations, and decline to mandate a fixed list of required languages;

- Clarify that "Developer" obligations follow the entity that designs, trains, offers, licenses, sells, or intentionally and substantially modifies covered ADMT, and that configuration, prompt design, integration, API use,

retrieval augmentation, testing, or ordinary customization should not convert a deployer or reseller into a developer;

- Clarify the treatment of pseudonymous data and third-party prescreening arrangements, including which party in a multi-party prescreening arrangement bears notice and consumer-rights obligations under the Act;

- Confirm that the Act's "commercially reasonable" qualifier applies only to the provision of meaningful human review and does not limit a Deployer's obligation to receive, process, and respond to consumer access and correction requests; and

- Clarify that "Consumer," as applied in the employment context, is limited to individuals applying for, or working in, positions located in Colorado.

B. Rulemaking Considerations

1. The regulations should adopt a meaningful human involvement standard for "Materially Influence" because the statutory term "non-de minimis" is undefined.

The Act's definitions of ADMT, "Covered ADMT," and "Materially Influence" do not, on their face, distinguish between a wholly automated process and one in which a human reviewer meaningfully considers and can override a system's output. Because "Materially Influence" turns on whether an ADMT output is a "non-de minimis factor" in a decision, the Attorney General has an opportunity — through interpretive rulemaking, not statutory amendment — to clarify what that term means in practice.

SIFMA recommends that the regulations provide that an ADMT output is a non-de minimis factor only when it directly determines the outcome, operates as a gating condition, is assigned determinative or near-determinative weight, or is used in a workflow where a human reviewer lacks meaningful authority, time, training, or information to evaluate and override the output. Conversely, an ADMT output should not be treated as materially influential where a qualified human reviewer possesses sufficient understanding of the output and its limitations, conducts an independent and substantive review together with other relevant evidence, and has practical authority to approve, modify, or override the output. This approach mirrors the "substantially replace human decision-making" concept in the other ADMT regulations and would directly advance the interoperability principle identified in the Considerations Document. A clear human-review standard will help distinguish genuinely automated consequential decision-making from routine uses of technology that support, but do not replace, professional judgement.

In addition, SIFMA requests that the regulations provide objective indicators and illustrative examples distinguishing covered ADMT from operational, administrative, fraud-prevention, cybersecurity, compliance, workflow, and information-summarization functions. Financial institutions routinely use automated tools for these purposes, and the absence of clear boundaries between covered and non-covered uses is, in SIFMA's

view, one of the most significant implementation risks under the Act. Examples that generally should not be considered covered ADMT unless their outputs effectively dictate a final decision without meaningful human review include fraud detection alerts routed for investigation, summarization of customer communications, document classification and indexing, claims triage and prioritization tools, service routing and workflow-management tools, retrieval and search tools, policy-reference tools, duplicate detection, translation, transcription, drafting support, and other employee productivity tools. These functions generally do not constitute covered ADMT when used solely for operational, administrative, security, compliance, or information-management purposes and do not materially determine a consequential decision. Additional examples and safe harbors in this area would materially improve consistency across the financial services industry and reduce the risk of inconsistent, firm-by-firm interpretations.

The need for this clarification is particularly acute in the context of credit strategy workflows, which may range from fully automated strategies, where a model determines and executes the credit outcome without human review of individual decisions, to partially automated strategies, where human analysts set the strategy parameters and a model executes against those parameters, or where human reviewers assess model outputs in the context of other factors before a decision is finalized. The Act's current definitions do not clearly indicate at what point a workflow ceases to involve a covered ADMT because the ADMT output is no longer a "non-de minimis factor" that "meaningfully alters" the consequential decision.

SIFMA requests that the regulations provide illustrative examples addressing, at minimum, the following scenarios common in the financial services context:

- Scenario A (Model-Executed, Human-Set Strategy): Human analysts determine the eligibility criteria and thresholds for a credit strategy; an automated model applies those criteria to individual accounts and generates outcomes. The regulations should clarify whether, and under what conditions, human involvement at the strategy-setting stage is sufficient to mean that the model's execution of individual decisions does not constitute a covered ADMT use.

- Scenario B (Model-Determined and Model-Executed Strategy): An automated model both determines the credit strategy parameters and executes individual outcomes without intervening human review at the individual-decision level. The regulations should clarify that this constitutes a covered ADMT use and identify what human review obligations attach.

- Scenario C (Intermediate Model Outputs): An ADMT generates an intermediate output that is consumed by a second ADMT rather than reviewed by a human reviewer. The regulations should clarify whether the intermediate model is independently subject to covered ADMT obligations or whether only the final decisioning model is.

Illustrative guidance on these scenarios would materially reduce firm-by-firm interpretive variation across one of the most significant ADMT use cases in financial services and would allow institutions to design human review programs that are meaningfully targeted at the workflows the Act is intended to address.

2. The regulations should clarify that "Consequential Decision" does not reach routine risk-based pricing because such pricing is already federally regulated.

The second prong of the "Consequential Decision" definition may be read to reach differentiated pricing or terms (for example, a loan approved at 20% rather than 15% interest). Risk-based pricing of this kind is a routine feature of credit and lending decisions already governed by the FCRA and ECOA. More broadly, financial institutions routinely use automated tools to support fraud detection, account servicing, operational workflows that inform, but do not themselves determine, a consumer's eligibility for, access to, or terms of a product or service.

SIFMA requests that the Attorney General propose regulations clarifying that a Consequential Decision refers to a final decision affecting access to, eligibility for, pricing of, terms of, or continuation of a covered product or service, and that differentiated pricing or terms constitute a Consequential Decision only where they effectively determine or materially limit a consumer's ability to obtain or continue the product or service. The regulations should further clarify that preliminary triage, quality-control review, fraud alerts pending investigation, exception routing, document processing, non-binding recommendations, informational outputs, and internal operational support are not Consequential Decisions unless they themselves change a consumer's rights, access, eligibility, pricing, terms, or benefits. This is an interpretation of an ambiguous statutory term, not a narrowing of the Act.

3. The Attorney General should issue sector-specific guidance because financial services are already subject to expansive federal frameworks.

The Considerations Document specifically invites input on which issues are best addressed through sector-specific guidance. SIFMA requests guidance recognizing that the GLBA, FCRA, and ECOA — together with their implementing regulations and the active oversight of the Securities and Exchange Commission, Commodities Futures Trading Commission, Office of Comptroller of the Currency, FDIC, Federal Reserve, Consumer Financial Protection Bureau, Federal Trading Commission, and FINRA — already regulate the use of personal financial data in eligibility and pricing decisions, including consumers' rights to access and correct information relied upon in a credit decision.

SIFMA further requests that the final rules expressly clarify how ADMT disclosures under the Act (particularly the adverse outcome disclosures required under Section 6-1-1704(3)) interact with existing obligations under the ECOA, FCRA, GLBA, and the BSA/AML and sanctions compliance frameworks. The regulations should also clarify that ADMT disclosure obligations do not require disclosure of information that is

restricted or protected under federal suspicious activity reporting requirements, fraud prevention controls, or other federally mandated compliance processes.

Where federal or state law already prescribes the timing, content, method, or limits of a consumer disclosure, a deployer should be permitted to satisfy overlapping ADMT requirements through the existing notice, supplemented only as necessary to identify the role of covered ADMT and explain any additional consumer rights under the Act. Similarly, where existing adverse action, claims, complaint-handling, dispute-resolution, or error-correction processes provide substantially similar information and consumer protections, the regulations should permit deployers to satisfy overlapping obligations through those existing processes, supplemented only as necessary to address any Act-specific requirements. Additional implementation guidance and worked examples demonstrating compliant disclosure approaches would materially reduce unnecessary operational complexity for institutions that must reconcile multiple, sometimes divergent, disclosure regimes covering the same underlying decision.

Such guidance would not exempt financial institutions from the Act, but would clarify how compliance with the Act's notice, disclosure, and consumer-rights obligations can be harmonized with existing, overlapping federal obligations.

4. The regulations should promote standardized disclosures and safe harbors to avoid UDAP/UDAAP-type consumer confusion.

Overlapping ADMT and federal disclosures could inadvertently create UDAP/UDAAP-type exposure where consumers receive multiple notices for the same decision that appear inconsistent or offer differing explanations. This risk is most acute in the adverse outcome disclosure context under Section 6-1-1704(3), where a consumer denied credit may already receive an adverse action notice under the ECOA and FCRA in addition to any notice required under the Act.

The regulations should also clarify that "adverse outcome" means a final, concrete decision that denies, reduces, terminates, suspends, materially changes, or materially disadvantages a consumer's access to, eligibility for, pricing of, terms of, or continuation of a covered product, service, benefit, or opportunity. It should not include preliminary flags, internal triage, fraud alerts pending investigation, quality-control reviews, exception routing, non-binding recommendations, informational outputs, or operational steps that do not themselves change the consumer's rights, access, eligibility, pricing, terms, or benefits.

The regulations should promote disclosures that are accurate, plain-language, and decision-specific without requiring technical model explanations. A useful disclosure should identify the decision, state that covered ADMT materially influenced the decision, describe the general role the technology played, identify the principal categories of information that materially affected the outcome, and explain how the consumer may request correction, additional information, or human review where applicable. The rule should not require disclosure of source code, model weights, proprietary algorithms, fraud rules, cybersecurity controls, trade secrets, confidential business information, privileged information, or information that could enable evasion

of compliance or security controls. Standardized examples and safe harbors — including model notices and sample disclosure language — would reduce consumer confusion, improve consistency of consumer-facing language across the industry, and reduce interpretation differences between institutions.

Section 6-1-1704(6) of the Act provides a mechanism for creditors to satisfy the Act's disclosure obligations in the context of the same decisions or adverse action. SIFMA requests that the regulations confirm the following interpretation of that provision, which financial institutions have identified as the most plausible reading of the statutory text:

- Adverse action notices: Where a financial institution already issues an adverse action notice to a consumer under the ECOA and FCRA, Section 6-1-1704(6) should be read to permit the institution to satisfy its Act disclosure obligations by supplementing that existing notice with: (i) a brief statement that a covered ADMT was used in the decision; and (ii) instructions for how the consumer may obtain additional information or exercise their rights under Part 17 of the Act. The regulations should confirm this approach and provide model supplemental language that institutions can incorporate into existing FCRA/ECOA adverse action notices.

- Point-of-interaction notices: The regulations should also address how the creditor carve-out in Section 6-1-1704(6) applies, or does not apply, where existing federal law does not independently require a point-of-interaction notice. Where FCRA or ECOA do not require a point-of-interaction notice for a particular transaction type, the Act may independently require one under its general notice provisions notwithstanding the existence of Section 6-1-1704(6). The current statutory text is ambiguous on this point because the carve-out refers to "the same decision or adverse outcome," which may not encompass all point-of-interaction scenarios. The regulations should resolve this ambiguity and provide examples demonstrating when a point-of-interaction notice is and is not required independent of existing federal disclosure obligations.

Confirmation of these interpretations would allow financial institutions to rationalize their existing federal disclosure infrastructure with the Act's requirements, rather than constructing a parallel disclosure regime for the same underlying consumer interaction.

5. The regulations should permit pre-use notice before the point of collection because the statute does not foreclose that flexibility.

The Act requires that pre-use notice be "clear and conspicuous" and "reasonably accessible at points of consumer interaction," and identifies a link or posting "reasonably proximate" to the relevant transaction as one compliant method. This language does not foreclose — and the regulations should confirm — that notice may be

delivered at any point before collection of personal information, consistent with other ADMT regulations.

SIFMA recommends that the regulations expressly permit Deployers to deliver pre-use notice at any consumer touchpoint occurring before collection, so long as the notice is readily available where consumers will encounter it.

6. The regulations should authorize consolidated ADMT notices because the act does not address multi-purpose ADMT use.

The Act does not expressly address how a Deployer should provide notice where a single ADMT is used for multiple purposes, multiple ADMTs are used for a single purpose, or multiple ADMTs are used for multiple purposes — circumstances the other ADMT regulations expressly accommodate through consolidated notice. SIFMA requests that the regulations adopt the same approach, provided the consolidated notice otherwise meets the Act's content requirements.

7. The Regulations should align consumer-rights response timeframes with existing requirements to promote interoperability.

To promote interoperability for multi-state institutions, SIFMA recommends that the regulations align ADMT-related consumer rights response timeframes with existing privacy, adverse action, complaint, and sector-specific processes (most notably those adopted under the California Consumer Privacy Act). If the Department adopts a default timeframe, SIFMA recommends an initial acknowledgment within 10 days and a final response within 45 days, with reasonable extensions where necessary due to complexity, volume, identity verification, specialized review, archived information retrieval, or coordination with a third-party provider.

8. The regulations should defer to existing federal accessibility standards rather than create a new state-specific standard.

The Americans with Disabilities Act and its implementing regulations and guidance already require covered businesses to make online products, services, and related information available in formats reasonably accessible to individuals with disabilities. SIFMA requests that the regulations confirm that compliance with applicable federal accessibility requirements and established digital accessibility programs satisfies the Act's accessibility expectations for ADMT notices, and that any additional guidance on digital accessibility standards for ADMT notices be issued in a manner consistent with, rather than in addition to, existing federal accessibility requirements. The Department should also allow alternative formats, assisted channels, and reasonable accommodations through existing customer service or complaint processes.

9. The regulations should not mandate a fixed list of required languages.

SIFMA requests that any regulations addressing notice languages require only that notices be provided in English and in those languages in which the business regularly transacts business and provides the relevant products or services in the ordinary course, rather than a fixed list untethered to a business's actual customer base.

10. The regulations should clarify that "developer" obligations follow the entity that creates the ADMT, not downstream resellers.

The regulations should clarify that "Developer" means the entity that designs, trains, offers, licenses, sells, or intentionally and substantially modifies a system so that it becomes covered ADMT for a covered decision purpose. A deployer should be the entity that controls how the system is used in a decision workflow. Configuration within vendor-provided parameters, prompt design, integration with internal systems, use of APIs, business-rule setup, retrieval augmentation, testing, or ordinary customization should not convert a deployer, white-label reseller, or intermediary into a Developer unless the organization permanently modifies model weights or materially changes the model's intended purpose. Under this approach, the originating Developer would remain responsible for Developer-level disclosures, which an intermediary could pass through to its own customers.

11. The regulations should clarify the treatment of pseudonymous data and third-party prescreening arrangements.

The Act does not define "de-identified data" or provide an express de-identification standard. To the extent that regulators look to the Colorado Privacy Act ("CPA") for guidance on this question, as SIFMA anticipates they will, the CPA's de-identification standard requires that a controller: (a) take reasonable measures to ensure data cannot be associated with an individual; (b) publicly commit to maintain and use the data only in a de-identified fashion and not attempt to re-identify it; and (c) contractually obligate any recipients to comply with those same requirements. This is a demanding standard, and many data arrangements common in financial services, including the use of tokenized or pseudonymized consumer data by third-party analytics vendors, may not meet it.

Financial institutions frequently engage third-party data intermediaries to support prescreened credit marketing campaigns. Under these arrangements, directly identifying consumer information is held by the intermediary and kept separate from the non-Personally Identifiable Information ("PII") data attributes on which eligibility analytics are performed. The institution itself may never have access to directly identifying consumer information during the prospect-selection stage. This data is not de-identified under the CPA standard, but it is pseudonymous, it cannot be attributed to a specific individual without the use of additional information, where that additional information is held separately and is subject to appropriate technical and organizational safeguards.

The regulations should address this distinction expressly and provide that:

- Data that meets a clearly defined pseudonymization standard, under which re-identification would require access to separately maintained information subject to appropriate technical and organizational controls, is treated differently from fully identified personal data for purposes of determining covered ADMT obligations; and

- Where a prescreening arrangement involves a third-party data intermediary that holds and separates PII from non-PII data, the regulations should provide guidance on which party (the institution, the intermediary, or the partner whose customer data is contributed) bears obligations under the Act, and in particular which party has the relationship with the individual for purposes of notice and consumer rights compliance.

12. The regulations should clarify the scope of the "commercially reasonable" qualifier as applied to consumer rights obligations.

SIFMA requests that the regulations expressly confirm that the "commercially reasonable" qualifier applies only to the provision of meaningful human review and does not extend to a Deployer's obligations to receive, process, and respond to consumer requests for access and correction under the Act. Under this reading, which SIFMA believes is most consistent with the statutory text, financial institutions must build intake and administration programs capable of receiving and processing access and correction requests consistent with the requirements of CPA Section 6-1-1306, regardless of whether correction of the underlying data is operationally feasible in a particular case.

At the same time, the regulations should confirm that existing CPA exceptions (for example, where access or correction is not technically feasible or would require disclosure of information that cannot be segregated from confidential business information) are available to Deployers where relevant, and should provide examples illustrating how a compliant consumer rights program would handle a request involving data held or processed by a third-party intermediary over which the Deployer does not have direct control.

13. The regulations should appropriately limit the scope of the definition of "Consumer."

SIFMA requests the regulations clarify that the definition of "Consumer" in the employment context (i.e., employment or employment opportunities that create or may create an employer-employee relationship), is limited to job applicants and employees applying for or working in positions located in Colorado. Absent clarification, a deployer could be required to apply the Act's ADMT obligations to any hiring or employment decision touching a Colorado resident, regardless of whether the position itself is based in Colorado, in New York, or anywhere else — an extraterritorial application of the Act

untethered to Colorado's legitimate interest in employment relationships actually situated within the state.

C. Conclusion

SIFMA appreciates the Attorney General's commitment to a rulemaking process guided by clarity, efficient compliance, interoperability, and innovation. The recommendations above are offered in that spirit and are, in SIFMA's view, achievable through interpretive rulemaking and guidance without amending the Act. We welcome the opportunity to discuss these comments further and to serve as a resource as the rulemaking proceeds.

Respectfully Submitted,

Melissa MacGregor

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Deputy General Counsel & Corporate Secretary
Securities Industry and Financial Markets Association

cc: Kim Chamberlain, Managing Director, State Government Affairs, SIFMA