

AI Act

What You Need to Know

- The EU's proposed AI Act is currently going through the legislative process. Once adopted, it will be one of the first AI-specific regulations in the world.
- The proposed Act establishes a legal framework for the development, distribution and use of AI. The proposal imposes its most substantial obligations on providers of AI systems, but the Act also includes rules applicable to distributors, importers and users of such systems.
- The proposed Act takes a risk-based approach. This means that the rules in the Act are tailored to the risks that the AI system generates.
- Consistent with this risk-based approach, Article 5 of the European Commission's draft proposal identifies "prohibited AI practices". This list includes a small group of AI systems, such as those that use subliminal techniques in a way that distorts a person's behavior and causes physical or psychological harm.
- The bulk of the Act is concerned with "high-risk" AI systems, which are set out in an exhaustive list in annexes to the proposal. These systems are allowed, but the Act imposes substantial obligations on AI providers to identify, manage, and mitigate the risks that could arise from their development and deployment.
- There are still a number of provisions in the Act that are subject to negotiation, to debate, and ultimately, to change.

Our insights into the thinking behind the Act, and our deep EU technology regulatory expertise, means that we are well placed to help clients navigate the emerging and highly complex AI regulatory landscape.

Why Does It Matter?

- The Act will likely be finalized in 2023. Companies will then have 2-3 years to comply with the Act before it becomes enforceable, based on the Act's current non-final draft.
- Providers of high-risk AI systems will need to develop and implement a range of compliance measures, including, among other obligations, complying with specific data governance requirements and ensuring that AI systems enable human oversight.
- The proposed AI Act has broad jurisdictional reach—it will apply to AI systems placed on the market, put into service, or used in the EU, and also to AI providers and users established outside the EU where the output produced by their AI system is used in the EU. This broad reach could raise compliance challenges for providers of AI systems, who may not always know or control where their customers will use the outputs generated by those systems.
- Companies should review the proposal and consider the extent to which AI systems that they are developing or using fall within scope of the Act. Compliance with some of the obligations will require potentially meaningful changes that may take some time to implement. Further, the Act provides for robust penalties for non-compliance.

Why Covington?

Covington is working with clients as the proposed AI Act moves through the EU legislative process.

For more information, please reach out to Lisa Peets, Marianna Drake, Madelaine Harrington, or another member of our team.



Lisa Peets
London

+44 20 7067 2031
lpeets@cov.com



Marianna Drake
London

+44 20 7067 2387
[mdrake@cov.com](mailto:m Drake@cov.com)



Madelaine Harrington
London

+44 20 7067 2300
mharrington@cov.com