European
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Services
Forum

EPFSF Briefing on

Artificial Intelligence: What Opportunities in Financial Services, and How to Address Potential Risks?

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Introduction

Artificial Intelligence (AI) presents enormous potential for economic growth, societal benefits, and innovation across all sectors of the economy. The financial services sector is no exception, with a variety of AI use cases emerging. At the same time, the increased uptake of AI solutions raises concerns about the safety, health and fundamental rights of citizens. Therefore, with its proposal for a Regulation laying down harmonised rules on Artificial Intelligence (AI Act) from 21 April 2021, the European Commission (EC) aims to strike the right balance between fostering a climate of excellence and a climate of trust. As the discussions in the EU institutions about the EC's proposal are on-going, this event will look specifically at the use of AI in the financial services sector, the relevance of the AI Act for the sector, and at what the legislative framework should look like in order to meet the EC's objectives.

Use of AI in the financial sector

From AI applications that increase efficiency to those that improve customer service, the uptake of AI in the financial services sector is transforming the quality of products and consumer experience. The ways in which financial service providers use AI however differs from one financial services sector to the next. Within the insurance sector, for instance, the uptake of AI applications is relatively slow, but some insurers are already using AI to fight against fraud more effectively. The development of AI tools can also help insurers to better monitor and anticipate risks, leading to greater risk prevention across the economy.

In the banking sector, AI can enhance customer experience, as well as the efficiency of banking processes in various ways, such as offering contextualised and personalised products, making more accurate creditworthiness assessments, providing better financial advice and better protecting customers from fraud. It can also help in AML/CTF efforts, improve cybersecurity and consumer protection, strengthen risk management, and help in compliance efforts.

Overview of EU-level developments on Artificial Intelligence

AI has had a firm place on the EU's agenda since April 2018, when twenty-four EU Member States signed the EU Declaration on Cooperation on AI, pledging to develop a "European approach" to AI in the attempt to compete with American and Asian tech giants. Also in April 2018, the EC unveiled the first-ever European Strategy on AI, aimed at boosting the EU's technological and industrial capacity and AI uptake, ensuring an appropriate ethical and legal framework for AI and to prepare for the socio-economic consequences of AI. The first Coordinated Plan on AI was consequently published in December 2018. Then, over the course of 2019, the EU's High-Level Expert Group on Artificial Intelligence (HLEG) developed, based on extensive stakeholder engagement, Guidelines for Trustworthy AI, which was followed by an "Assessment List for Trustworthy AI" in 2020.

This work fed into the EC's White Paper on AI (2020), which outlined a "vision for AI in Europe: an ecosystem of excellence and trust", and which served as a basis for the legislative proposal for an AI Regulation laying down harmonised rules for the EU (Artificial Intelligence Act) that the EC published on 21 April 2021.

The proposed AI Act lays down a horizontal set of rules which applies to all economic sectors. It is not designed specifically with the financial sector in mind although it has an impact on it, notably because it proposes to categorise AI systems used in creditworthiness assessment and credit scoring as high-risk. The overall aim of the proposal is to establish a legal framework to, on the one hand, ensure the legal certainty needed to promote innovation and investment in AI, while, on the other hand, guaranteeing the security, health and fundamental rights of EU citizens. The EC's proposal include:

- Rules for AI systems that apply to providers, users, importers, and distributors of AI systems in the EU;
- A list of prohibited AI systems;
- Stricter requirements for high-risk AI systems;
- Fines of up to EUR 30 million or up to 6% of annual turnover.

In parallel, the topic has been high on the radar of the European Parliament (EP), which adopted several own-initiative reports on AI in the autumn of 2020, including one on a “Framework of ethical aspects of artificial intelligence, robotics and related technologies” and one on a “Civil liability regime for artificial intelligence”. The EP moreover installed a “special committee” on AI (AIDA Committee), which resulted in the development and subsequent adoption of a report on “AI in the digital age” in April 2022. While these reports in themselves are non-legislative, they set the tone of the debate.

The work on the EC’s proposal will be carried out under a joint committee procedure by the EP Committee on Internal Market and Consumer Protection (IMCO) and the EP Committee on Civil Liberties, Justice and Home Affairs (LIBE). The Legal Affairs Committee (JURI), the EP Committee on Industry, Research and Energy (ITRE) and the EP Committee on Culture and Education (CULT) are also involved in the legislative work as associate committees.

Key points in the discussions

There is a vivid debate on the content of the proposed text, and it has drawn the interest of legislators and relevant stakeholders alike, such as the financial industry and consumer organisations. This stems from the dual goal of the proposal to safeguard fundamental rights, while at the same time ensuring that there are no impediments to innovation. Several points are front and center in the discussions, including the scope, the definition of what constitutes an ‘AI system’, and the risk levels proposed by the EC.

Scope

The EC’s proposal applies to all aspects of the lifecycle of the development, sale and use of AI systems, prompting a debate about the extent to which the scope should be narrowed down or clarified. As proposed by the EC, the scope covers users of AI systems, as well as providers placing AI systems on the market or putting AI systems into service, regardless of whether those providers are established in the EU or not. The proposed regulation also applies to users and providers of AI systems that are based in a third country, but where the output produced by the system is used in the EU.

The definition of an “Artificial Intelligence system”

In a similar vein to the proposed scope, and igniting similar discussions, in its proposal, the EC provides a broad definition of an “AI system”: software that is developed with machine learning, logic, and knowledge-based or statistical approaches, and that “can, for a given set of human-defined objectives, generate outputs such as content, predictions, recommendations, or decisions influencing the environments they interact with." Therefore, some voices in the debate advocate for a narrower definition.

Risk levels

Much of the debate focuses on the risks related to AI, fueled by the EC proposal for a risk–based approach. This approach is built on four risk levels: unacceptable risk, high-risk, limited risk and minimal risk. The EC additionally developed a methodology to identify high-risk AI systems, which should be subjected to stricter requirements than the applications falling in the limited and minimal risk categories. Of particular relevance to the financial sector, is that the EC proposes that AI systems used to evaluate the credit score or creditworthiness of natural persons should be classified as high-risk - meaning that these practices would be subjected to more stringent requirements - because they determine those persons' access to financial resources or essential services such as housing, electricity, and telecommunication services.

Interaction with existing legislation

Finally, another point in the discussions is the proposal's interaction with EU law already in place. This is particularly relevant for the financial sector, as itis already subject to a broad range of requirements and procedures that also apply to the use of automated processes, including AI, such as those stipulated in the General Data Protection Regulation (GDPR), the Consumer Credit Directive (CCD), the Mortgage Credit Directive (MCD), the EBA Guidelines on loan origination and monitoring, and EIOPA's report on AI governance principles.

Conclusion

Getting it right is important, from a content perspective and also considering the interaction with existing legislation that already touches upon the use of AI. It is essential to guarantee the fundamental rights, health and safety of EU citizens. At the same time, the new legislative framework on AI should enable the innovation that can boost Europe's economy and societies. This is particularly important for the financial sector, where digitalisation can really have a booster effect, not only to the provision of innovative and high-quality products and services to consumers, but also to Europe's competitiveness. In this respect, if the proposed AI Act is adopted, the EU will be the first jurisdictions worldwide to establish a regulatory framework for artificial intelligence.

Proposed questions for the discussion

- Ensuring consumer trust and enabling innovation should not be mutually exclusive: how can we strike the right balance?

- Are concerns by policymakers about the use of AI by financial services providers valid? How can we increase consumer trust in AI-powered financial services? How can we address potential risks?
- To what extent will the AI Regulation help the EU reach its goal of really competing with Asia and the United States?
- What should be avoided in the new AI Regulation at all cost?

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