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Paris, 6 August 2021

**Paris EUROPLACE's response to the European Commission's feedback  
on Artificial intelligence – ethical and legal requirements<sup>1</sup>**

Paris EUROPLACE -which represents Paris International Financial Centre's actors, French as well as international corporates, investors, banks, financial intermediaries and other financial services providers- welcomes the opportunity to contribute to the debates regarding the incoming regulatory framework on Artificial Intelligence (AI).

Our main message aims to reflect the absolute necessity to maintain a competitive regulatory regime in the European Union compared to other jurisdictions. Whilst taking account of technical and sectoral peculiarities, the long-term objective of fair, balanced and competitive rules has to be clearly highlighted and even upgraded for the EU, in order to avoid undue regulatory divergences or gaps between jurisdictions. A vigilant monitoring of these risks across the world and a real willingness to strengthen the level playing field for the Union should go hand in hand with agility and flexibility when it comes to react and to modify some European rules when needed.

Consequently, four main considerations have to prevail, in our view, through this consultation:

1. First, **in terms of level playing field, the direct and indirect costs of the contemplated regulation seem very significant** to us, especially for credit risk assessment where associated risks are estimated high. In particular, certification costs over the life cycle of a product (machine learning, for example) notably include the involvement of significant human resources, monitoring systems and possibly high frequency updates (daily in the most extreme cases) regarding algorithms. Due

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<sup>1</sup> 2021/0106 (COD) Proposal for a regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (artificial intelligence act) and amending certain Union legislative acts.

to such possibly elevated costs, we want to highlight the risk that only a very few numbers of players in Europe might be in a situation to comply with such a very challenging regulatory framework, posing additional risks in terms of European sovereignty and competition within the EU. We would recommend to give more clarity to the impact assessment in particular for a system where significant monitoring and retraining is required, highlighting the human resources required to comply with this regulation.

2. Secondly, against a backdrop where data are key but tricky to manipulate, **the obligation set to ban any error in the datasets looks very ambitious**, if not unrealistic, from a practical and business point of view.
  - a. While we welcome the willingness to control biases, rules on age in the domain of credit assessment, for example, exist and could not be easily changed. These rules constitute biases which are important to be taken into account to reflect the higher risks associated with these populations. Moreover, biases may exist that could not be ruled out entirely due to the impossibility to truly assess them in the first place.
  - b. It seems important to precise how pretrained models (that are now widely used due to the cost to build these models) would be treated (as the data used to train them may not be easily available or controllable).
  - c. Moreover, while we welcome the specific treatment of providers from third-party jurisdictions, we want to raise that this regulation may give an advantage to them. Compared to what may be done by big international firms with data that could be obtained in other jurisdictions, this situation may lead to distortions in terms of competition. In addition, a significant drag may appear on incentives to innovate, as these barriers to entry the market could hamper some firms to challenge the business model of corporates which are already well established (European companies may decide to stop developing applications that are considered high risk while foreign companies would have to adapt their systems built in other jurisdictions which pose significant risks for our sovereignty). As a consequence, some transitory measures may be needed for companies in order to smooth the costs embedded in the new regulation framework (and measure put in place to avoid such distortions).
3. Third, **definitions matter a lot, but many do not seem clear enough to enable a proper implementation of the regulation (for example what exactly constitutes an AI system)**. Indeed, we think more clarity and precision are needed to exactly understand and comply with the regulation to come. In many cases, we think definitions are too abstract to be correctly understood and made applicable.
4. Last but not least, it is key to precise how this regulation would be translated at a national level and to precise mechanisms in case of disagreement between the spirit of this regulation and the national implementation. We also recommend that during the innovation phase, authorities allow a right for mistake, independent of the use of a sandbox, to avoid the further development of the Proof of concept syndrome (companies stop right after the POC because the results of the POC, while promising

but not free of error, could pose a compliance risk that companies, too afraid by the repressive measures presented by the regulation, are not willing to take) that would hinder innovation and may reduce cooperation between startups and corporates.

This position aims at reflecting the views expressed by representatives of market players, while it also takes into account some remarks shared by public authorities. Some of these contributors have been listed in Annex 1. Our response is thus structured around two main goals covering the issues raised in the European Commission's document:

- i) Properly defending the competitiveness of the EU industry against any future regulatory divergence post-Brexit requires to correctly define the regulation to come;
- ii) Flexibility and adaptability of the rules will be critical to correctly design the characteristics of an appropriate regulatory architecture for the EU framework compared to what other jurisdictions may decide in a very near future.

## **Paris EUROPLACE Working Group on the EC Consultation: Composition**

The corresponding Working Group included notably the following members, listed in alphabetical order:

Arnaud de Bresson, Paris EUROPLACE: [bresson@paris-europlace.com](mailto:bresson@paris-europlace.com)

Nicolas Méric, Dreamquark: [nicolas.meric@dreamquark.com](mailto:nicolas.meric@dreamquark.com)

Olivier Vigna, Paris EUROPLACE: [olivier.vigna@paris-europlace.com](mailto:olivier.vigna@paris-europlace.com)