August 6, 2021

APCIA Response to European Commission Proposed AI Regulation

The American Property Casualty Insurance Association (APCIA) appreciates the opportunity to provide comments on the European Commission's (Commission) proposed artificial intelligence Regulation (proposed Regulation).

APCIA is a United States trade association representing property and casualty insurers doing business locally, nationally, and globally. Representing nearly 60 percent of the U.S. property casualty insurance market, APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers.

While the proposed Regulation does not include provisions specifically targeting the insurance sector, it nevertheless could impact the application of Artificial Intelligence (AI) systems in the insurance sector. The proposed Regulation would grant the right to the Commission to classify further AI uses as high-risk AI systems. In addition, European Insurance and Occupational Pensions Authority (EIOPA) is trying to understand the potential consequences of the Regulations' provisions from the perspective of the insurance industry and, in the future, could put forward insurance-specific supervisory initiatives as an add-on to the proposed Regulation. Lastly, the proposed Regulation specifically calls for development of and deference to sectoral regulatory frameworks, so the sector will be focusing on insurance-specific regulations. As such, APCIA has a significant interest in the development of this proposed Regulation, and we look forward to continued dialogue with the Commission.

Fundamentally, AI has great potential to augment human judgment, improve decision making, and enhance the customer experience. These consumer benefits combined with the evolving nature of AI emphasize why it is so important that the Commission not establish requirements and obligations that are prescriptive and that will stifle rather than foster innovation. Additionally, promoting an innovative private market is also recognizing that owners of AI tools have the right to protect the intellectual property they have expended. Further, promoting an ecosystem of excellence depends on public private collaboration and global consistency in workable regulatory approaches. Finally, AI is a tool or model with many of the same challenges and issues that existing risk-based regulatory frameworks are designed to address and at a fundamental level we are concerned there may still be some ambiguity and overlap in existing regulatory regimes.

Based on the foundational observations above, APCIA offers the following initial high-level concerns:

- As proposed the definition of AI is broad and could capture traditional tools that are not AI. For instance, the definition should not include statistical methods. Respectfully, the Commission should develop a more narrow and meaningful definition.

- APCIA supports the risk-based approach to addressing AI; however, APCIA would encourage additional clarity in how the risk-based approach operates without being prescriptive. For instance, risk categorization falls in four tiers (unacceptable risk, high risk, low risk, minimal risk). These might turn ambiguous at some point and what may not be "high-risk" today could be considered "high-risk" in the future creating compliance challenges for companies. The list should be future-proof and only encompass those AI systems that are truly high-risk.

- The proposed Regulation should provide more clarity around whether the provisions apply to providers or users.

- Consistency in application is just as important as workable standards. AI tools will be deployed across jurisdictional boundaries and, as such, there should be coordination among EU supervisory bodies as to the interpretation and implementation of this rule.

The above includes some high-level concerns of a very robust proposal. APCIA appreciates the opportunity to provide comment to-date and looks forward to future engagement and feedback on this proposed Regulation.