

IRSG DATA WORKSTREAM RESPONSE TO CONSULTATION ON WHITE PAPER ON ARTIFICIAL INTELLIGENCE

The International Regulatory Strategy Group (IRSG) Data workstream is pleased to respond to the European Commission's consultation on the White Paper on Artificial Intelligence. We value the Commission's support for a regulatory approach with the twin objective of promoting the uptake of AI and of addressing the risks associated with certain uses of this new technology.

The International Regulatory Strategy Group (IRSG) is a practitioner-led body of leading UK-based representatives from the financial and professional services industry. It is an advisory body to the City of London Corporation, and to TheCityUK. The IRSG Data workstream has representatives from financial services firms, trade associations, the legal profession and data providers. In October 2019, the IRSG published a report in collaboration with Accenture entitled *"Towards an AI-powered UK: UK-based financial and related professional services"*¹. This response builds on that report.

This consultation is timely, as the use and leveraging of AI and machine learning continues to become embedded across the economy and in nearly every industry, from pharmaceuticals to aviation, and of course financial services. Indeed, the IRSG/Accenture report found that UK-based financial and related professional services firms are increasingly adopting AI technologies for industry-specific use cases. AI adoption may be increasing; however its use is already well-established across the sector. For a number of years AI has been assisting financial services firms to enhance the customer experience, respond to regulatory drivers more effectively, and combat fraud and financial crimes. There are also economic benefits. An Accenture study on the impact of AI on 12 developed economies concluded that AI has the potential to double annual economic growth rates across all 12 countries. This would boost labour productivity by up to 40% by 2035 across these economies, enabling people to make more efficient use of their time². We therefore agree with the Commission's assertion that AI can unlock a wide range of benefits for both businesses and consumers³.

The IRSG Data workstream are particularly interested in the White Paper as data is the lifeblood of AI and a fundamental asset of the digital economy. In the EU context, the Center for Data Innovation note that the GDPR both directly and indirectly impacts the development and application of AI, due to the dependence of AI systems on vast amounts of data⁴. AI requires and is dependent on data to train, learn and act. In this regard, a consistent approach to the application of AI rules will need to be ensured across the EU, particularly where sector specific rules differ between Member States, e.g. in respect of employment laws. In the data context, the current COVID-19 pandemic has highlighted some of the existing challenges around consistency, whereby Member States have adopted differing approaches to how special category data may be processed, and even take a different view from

¹ IRSG & Accenture, 'Towards an AI-powered UK: UK-based financial and related professional services', (October 2019) available at: <https://www.thecityuk.com/assets/2019/Report-PDFs/d28e730cbe/Towards-an-AI-powered-UK-UK-based-financial-and-related-professional-services.pdf>

² Accenture, 'Artificial Intelligence is the Future of Growth', (September 2016) available at: <https://www.accenture.com/us-en/insight-artificial-intelligence-future-growth>

³ European Commission, 'White Paper on Artificial Intelligence', (February 2020), p. 2

⁴ Center for Data Innovation, 'The Impact of the EU's New Data Protection Regulation on AI', (March 2018) available at <http://www2.datainnovation.org/2018-impact-gdpr-ai.pdf>

EDPB guidance on how to address key issues around processing of special category data, contact tracing technologies etc.

As previously mentioned, financial services institutions gather and leverage large quantities of data, so principles for AI fairness are likewise being devised and tailored to the sector. In January 2019, the Monetary Authority of Singapore published a framework entitled ‘Principles to Promote Fairness, Ethics, Accountability and Transparency’ in Singapore’s financial services⁵. The publication of this set of principles is a landmark initiative, as it is believed to be the first set of guidelines on AI issued by a central bank or financial regulator. This is novel considering AI has been part of the financial services landscape for some time now. This has been driven by the wider shifts in how the industry operates and the need to process vast quantities of data – something machine learning systems excel at. We therefore stress that the increased adoption of AI within financial and related professional services sector is evolutionary rather than revolutionary.

The IRSG Data workstream recognise the balance needed from regulators between supporting businesses to innovate responsibly using AI versus second guessing firms as they trial and deploy these emerging technologies across their business. Recognition of this in the White Paper is therefore welcome:

“As a matter of principle, the new regulatory framework for AI should be effective to achieve its objectives while not being excessively prescriptive so that it could create a disproportionate burden”⁶

Nevertheless, it is our opinion that the leveraging and application of existing, tried-and-tested regulatory frameworks supplemented by regulatory guidance, codes of practice and industry standards will enable AI to thrive. Regulators will play a key role in encouraging the growth and adoption of AI in the UK financial services sector by fostering an innovation-friendly environment. To do so, the IRSG proposes that regulators adopt a suggested approach to policy development based on the following principles:

1. Leverage and adapt existing regulatory solutions and frameworks.

- It is important to recognise existing laws and regulations –such as those on health & safety, IP rights, manufacturing standards, liability – and ensure that any AI requirements do not contradict or duplicate these provisions.
- AI solutions in existing sectors will be subject to those sectoral requirements in any event, so there may be questions around whether the AI element adds a new risk or issue which needs addressing through a novel framework, or whether a manual process is now merely automated.

⁵ Monetary Authority of Singapore, ‘Principles to Promote Fairness, Ethics, Accountability and Transparency (FEAT) in the Use of Artificial Intelligence and Data Analytics in Singapore’s Financial Sector’, (February 2019) available at: <http://www.mas.gov.sg/~media/MAS/News%20and%20Publications/Monographs%20and%20Information%20Papers/FEAT%20Principles%20Updated%207%20Feb%202019.pdf>

⁶ European Commission, ‘White Paper on Artificial Intelligence’, (February 2020), p. 17

- It is therefore necessary to be clear about when and in what circumstances AI rules apply, and whether AI rules take precedence over or sit beneath existing requirements.
- 2. Where novel categories of risk emerge, ensure that targeted regulatory remedies are available to protect consumers, encourage healthy competition, and help ensure market stability.**
- As with all challenges and new opportunities, involving a wide range of experts is important, but equally important is to listen to the voice of business and customers and what they want and what concerns them. There are practical and cultural issues to be addressed, not just legal and technical issues in the development of AI.
- 3. Foster an innovation-friendly business ecosystem enabled by a principles-based, outcome-focused approach to regulation and avoid the imposition of prescriptive rules to allow for flexibility in application and for adaptability over time.**
- Firms should be enabled to develop their own risk-based and accountable approach to developing AI, focused on the outcomes and impacts.
- Legislation should not require step by step regulatory approval but rather encourage innovative, risk-based and collaborative regulatory oversight, by providing regulators with modern and agile oversight tools, such as regulatory sandboxes.
- 4. Adopt a risk-adjusted approach to AI by taking into consideration aspects such as context specificity for AI use cases.**
- A focus on “high-risk” applications when it comes to regulation does not take into consideration the implementation of an AI system, nor take into consideration the context of the use of AI and how sectors overlap with one another.
- For example, a third-party vendor might not consider the AI model they have built to be “high risk” but when a customer uses the model for a specific application it may then become high risk. Applications should therefore be considered on a case-by-case basis, with a clear distribution of liability across the supply chain.
- Sectors evolve and change and merge – AI requirements need to be nimble and flexible to adapt to the changing world in which we live.
- 5. Consider whether participation in international standard setting would be more effective, efficient and supportive in engendering better and broader data practices rather than following a regional approach.**
- Re-training algorithms on European data sets could introduce unnecessary burden or bias in the training data. As stated, the volume, quality and type of available data is critical to the design, training and use of AI models. We need a global focus to ensure a diverse and fair user experience and avoid burdensome requirements for companies serving markets across the globe.

- The previously mentioned Singaporean example shows that the development of a high-level ethical framework for transparent and explainable AI can help to steer and guide firms as they adapt their operations and apply AI responsibly.
- It also illustrates that, as technology and data are increasingly borderless, it is essential that any approach to AI takes into consideration the international dimension and inter-operability with approaches taken in other countries.
- The IRSG Data workstream would support a co-ordinated network of existing centres of excellence, rather than the proposed 'lighthouse centre of research, innovation and expertise' in order to ensure coherence and co-operation of research efforts across the EU. International co-operation will also be key to Europe's success. It will ensure Europe benefits from trusted AI developed overseas but also that AI developed in Europe can cross borders without diverse obligations, which particularly burden SMEs.

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IRSG DATA PROTECTION WORKSTREAM – MEMBERSHIP

ABI	Impax Asset Management
AFB	Invesco
AFME	JP Morgan
AIMA	Lloyds Banking Group
Bank of America Merrill Lynch	London Stock Exchange Group
BNY Mellon	Marsh UK & Ireland
CBI	Mastercard
Citigroup	Morgan Stanley
Clifford Chance	Nasdaq
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