IN BRIEF

REGULATORY FRAMEWORK APPLICABLE TO AI SYSTEMS IN THE INSURANCE SECTOR

Artificial Intelligence (AI) is expected to play a pivotal role in the ongoing digital transformation in all industries.

In the insurance sector, AI is also expected to have a substantial impact, with a growing trend towards the adoption of AI systems throughout the insurance value chain.
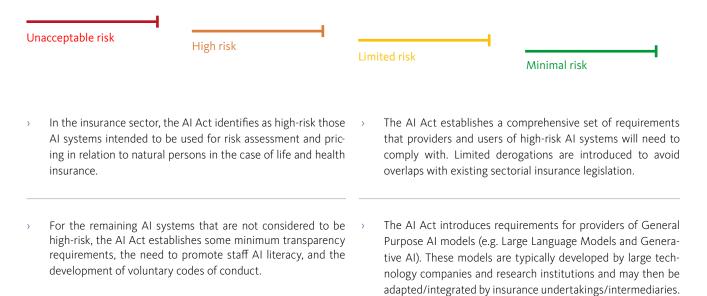
AI offers many opportunities for the economy and the society, but it also brings some risks.

In this context, the European Parliament and the European Council adopted the AI Act which was published in the Official Journal of the EU in July 2024. Existing regulation for insurance in Europe already applies, including to the use of new technology.

EIOPA will continue working to facilitate a smooth implementation of applicable regulations to the use of AI in the insurance sector and support national insurance supervisors in their supervisory work.

THE AI ACT AND ITS APPLICATION IN THE INSURANCE SECTOR

›   The AI Act applies across all sectors of the economy, including insurance. It aims to ensure a high level of protection for fundamental rights, health, and safety.

›   It follows a risk-based approach, classifying AI systems according to different risk levels:

Unacceptable risk

High risk

Limited risk

Minimal risk

›   In the insurance sector, the AI Act identifies as high-risk those AI systems intended to be used for risk assessment and pricing in relation to natural persons in the case of life and health insurance.

›   The AI Act establishes a comprehensive set of requirements that providers and users of high-risk AI systems will need to comply with. Limited derogations are introduced to avoid overlaps with existing sectorial insurance legislation.

›   For the remaining AI systems that are not considered to be high-risk, the AI Act establishes some minimum transparency requirements, the need to promote staff AI literacy, and the development of voluntary codes of conduct.

›   The AI Act introduces requirements for providers of General Purpose AI models (e.g. Large Language Models and Generative AI). These models are typically developed by large technology companies and research institutions and may then be adapted/integrated by insurance undertakings/intermediaries.

NEW FEATURES INTRODUCED BY THE AI ACT FOR THE INSURANCE SECTOR

The use of AI in insurance is already subject to insurance sector regulation and supervision. The AI Act introduces some additional requirements for providers (developers) or deployers (users) of high-risk AI systems (insurance use case):

Providers must ensure training, validation, and testing data sets follow data governance practices to detect and prevent biases that could lead to discrimination

Providers must ensure AI systems are designed to be transparent enough for users to interpret a system's output and use it appropriately

Providers should ensure that the AI system undergoes a conformity assessment based on internal control to ensure compliance with the AI Act

Providers should register themselves and the AI system in the EU database

Deployers should conduct a fundamental rights impact assessment prior to the first use of the AI system

Providers/deployers should inform the relevant authority/providers and take corrective action/suspend the use of the system in case they identify a serious incident

The AI Act envisages the designation of national insurance supervisors as market surveillance authorities for high-risk AI systems used in the insurance sector.

However, Member States have the possibility to designate another market surveillance authority in appropriate circumstances and provided that coordination between relevant authorities is ensured.

AI ACT AND INSURANCE SECTOR LEGISLATION

Insurance sector legislation continues to apply across all use cases, regardless of their qualification under the AI Act.

It is necessary to ensure the effective application of sector legislation, taking into account proportionality and the specificities of the insurance sector. This is particularly important given the increasing use of AI across the insurance value chain and the growing complexity of AI systems.

	AI ACT	INSURANCE LEGISLATION
OBJECTIVES	➤ protection of fundamental rights, health, and safety	➤ consumer protection, solvency, and financial stability
GOVERNANCE	➤ The AI Act introduces a comprehensive governance and risk management framework for providers of high-risk AI systems. Insurance undertakings as providers or deployers of high-risk AI systems already have to comply with a comprehensive system of governance requirements. ➤ To address potential overlaps the AI Act introduces limited derogations applicable to undertakings subject to Solvency II, e.g. risk management system, post-market monitoring system.	
SCOPE	➤ AI systems, providers and users ➤ requirements primarily focused on high-risk use cases	➤ activities of direct insurance and reinsurance ➤ activities of insurance and reinsurance distribution
OUTSOURCING	➤ Using third-party AI systems could be considered outsourcing under Solvency II. The AI Act establishes different obligations and responsibilities for the different actors of the AI value chain (e.g. providers, deployers, importers etc.). However, insurance undertakings remain fully responsible for all their obligations under Solvency II when they outsource functions or any insurance activities.	

This communication is intended solely to offer a preliminary high-level overview of the legal framework. It is for informational purposes only and does not carry any legal value.

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CONTACT US

Westhafenplatz 1,
60327 Frankfurt am MainGermany
https://www.eiopa.europa.eu/