17 May 2021

European Commission Proposes Regulation Laying Down Harmonised Rules on Artificial Intelligence – Artificial Intelligence Act

On 2 April 2021, the European Commission published a proposal for a Regulation laying down harmonised rules on Artificial Intelligence ('Artificial Intelligence Act' or 'Act') which captures the risks posed by the use of high-risk Artificial Intelligence ('AI') – *"aiming to turn Europe into the global hub for trustworthy Artificial Intelligence"*.

The proposal builds on the existing work carried out by the High-Level Expert Group on AI ('HLEG') namely, a set of key requirements for the ethical use of AI, and the Assessment List for Trustworthy Artificial Intelligence ('ALTAI').

> The HLEG defines AI to the extent that *"Artificial intelligence refers to systems that display intelligent behaviour by analysing their environment and taking actions – with some degree of autonomy – to achieve specific goals."*

Moreover, to create an inclusive approach, the Commission has incorporated feedback from 1250 stakeholders, including over 450 additional position papers in its Whitepaper on AI.

In the consideration of what is to be described as high-risk, only certain AI systems defined in the proposal, which may create an adverse impact on people's safety, or their fundamental rights, are captured at this stage. It is expected that the list will expand as necessary to capture new use-cases as the technology develops.

The Context of the Financial Services Industry

The Proposal centres around the use of high-risk AI, as may be applied within the context of financial services industry, *inter alia systems used to evaluate creditworthiness of natural persons or establish their credit score.* Notwithstanding, the Artificial Intelligence Act also expands in broad scope to any high-risk AI systems employed by all regulated Financial Institutions, with criteria set for identifying these systems. The said Act applies without prejudice to providers, distributers, importers, operators, and users of AI systems.

High-risk AI systems should only be placed on the Union market or put into service if they comply with certain mandatory requirements, including the quality of data sets used, technical documentation and record-keeping, transparency, and the provision of information to users, human

oversight, and robustness, accuracy, cybersecurity, with critical importance placed on conducting a conformity assessment.

The MFSA is seeking the financial services industry's views of how the said proposed Act might affect their operations and compliance requirements, and if they see value in implementing AI systems within their business, in light of the proposed Act. Any feedback in relation thereto is welcomed by the Authority.

Please find the links to the relevant resources below:

(i)   Proposal for a Regulation laying down harmonised rules on artificial intelligence
(ii) Annexes to the Proposal
(iii) Impact Assessment Report

Any queries or feedback in relation to the above may be directed to digital@mfsa.mt, whilst updates and developments on FinTech related matters and initiatives may be found on the MFSA website at mfsa.mt/fintech/.