BETTER FINANCE's Response to the European Commission's Targeted Consultation on Artificial Intelligence in the Financial Sector

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Executive Summary

The European Commission's consultation on Artificial Intelligence (AI) in Financial Services is part of the broader AI Act, a horizontal legislation regulating AI across multiple sectors, including finance. While AI systems in financial services must comply with existing frameworks like MiFID and MAR, there is still a need for clarity on AI usage beyond the "high-risk" fiinancial applications identified in creditworthiness assessments and insurance pricing, which would require stringent transparency and oversight. Despite these frameworks, practical implementation challenges remain.

This consultation, primarily directed at firms applying AI in financial services – such as data providers, investment firms, financial institutions, and fintech companies – seeks technical input on the benefits, risks, and alignment of AI systems with financial regulations. It also explores AI's use in advisory services, internal processes, trading, and risk mitigation, areas where BETTER FINANCE sees potential for retail investor protection and market integrity. We emphasise that AI systems must deliver "best interest" outcomes, noting that tailored offers do not always translate to the most suitable solutions for retail investors, which presents a risk.

Overall, BETTER FINANCE views this consultation as a crucial step for legislators to ensure AI-driven technologies can protect and empower retail investors while upholding fairness, transparency, and integrity in the market. AI offers opportunities for innovation, such as processing complex data like ESG metrics and enhancing personalised financial solutions. However, these benefits come with risks related to transparency, bias, and ensuring AI operates in the best interest of the client.

AI's uptake in financial services, along with enhanced governance, will also depend on aligning with other legislative initiatives, such as the FIDA (Financial Data Access Regulation) and the Open Finance framework. This consultation provides a key opportunity to address both the potential and challenges of AI, ensuring the necessary safeguards are in place to protect retail investors.

BETTER FINANCE key points in response to the consultation has highlighted the following concerns and recommendations:

1. **Transparency and Explainability**: AI systems are creating new, sophisticated and complex services that may appear simple to consumers, potentially leading to confusion. BETTER FINANCE emphasises that retail investors must have clear explanations of how AI-driven decisions are made, especially in robo-advisory services, credit scoring, and investment offers. AI systems should be transparent and understandable so that retail investors can assess whether the recommendations and decisions align with their best interests. Moreover, the ability to test AI outcomes or platforms shall be provided without lock-in of necessity to provide extensive set of personalised data.

2. **Suitability, Tailored Advice, and Best Interest of Clients**: While AI can provide tailored financial products, BETTER FINANCE stresses that tailored advice does not always mean the product is suitable for the retail investor. AI systems must be designed to ensure that the offers align with the best interest of the client, not just based on data patterns. The AI-driven personalisation must result in products that are both personalised and suitable to the client's financial goals and needs. Additionally, human oversight remains crucial in verifying that AI systems deliver suitable financial advice and outcomes that serve the investor's best interests, ensuring ethical decision-making and avoiding conflicts of interest.

3. **Bias, Discrimination, and Ethical Considerations**: AI systems, if not properly managed, can perpetuate bias and discrimination, particularly in sensitive areas like credit scoring and insurance pricing. BETTER FINANCE advocates for strong safeguards to ensure that AI operates ethically, with measures to prevent biases that may unfairly disadvantage certain demographic groups. AI systems must integrate best interest principles into decision-making processes to mitigate risks of biased outcomes.

4. **Consumer Data Protection, Consent and Awareness**: BETTER FINANCE underscores the need for stringent data protection mechanisms. Retail investors should fully understand how their data is used in AI systems and be given easy option to opt-out or always request human review of AI-driven decisions, beyond only sensitive areas such as creditworthiness and insurance pricing or investment advice.

5. **Accountability and liability**: BETTER FINANCE calls for clear and well-defined accountability frameworks to ensure that financial institutions remain responsible for AI-driven decisions, even when AI systems are provided by third-party vendors. In cases where AI errors or failures cause harm, the liability should be transparent and fall on the institutions deploying these technologies.

6. **AI-Washing and Consumer Mistrust**: BETTER FINANCE raises concerns about AI-washing, where simple automation is branded as sophisticated AI, potentially misleading consumers and undermining trust. We advocate for accurate and transparent labelling of

AI services to ensure that consumers are not misled about the capabilities and risks of AI-driven products.

7. **Ethical AI Use and Market Integrity:** Ensuring that AI is deployed ethically and in ways that preserve market integrity is critical. BETTER FINANCE stresses the importance of monitoring AI applications, particularly in trading systems, to avoid manipulation, conflicts of interest, and unfair practices. AI should contribute to fair, transparent, and competitive markets, and ethical use must be guaranteed.

BETTER FINANCE remains committed to further evaluating AI's role in financial services, advocating for stronger safeguards to protect retail investors. However, the complexity of AI systems and the difficulty in fully testing their impacts make it challenging to comprehensively assess all risks at this stage. Ongoing monitoring and adjustments will be essential as AI continues to evolve and reshape the financial services landscape.

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For a detailed view of the responses to the targeted questions in the consultation document, please refer to the attached document below.

Targeted consultation on artificial intelligence in the financial sector

Fields marked with * are mandatory.

Introduction

In financial services and beyond, there is a broad technology-driven trend towards greater use of AI. The Commission highlighted the need for a targeted consultation on the use of AI in financial services. The goal is to identify the main use cases and the benefits, barriers and risks related to the development of AI applications in the financial sector.

In general, the development and use of AI in the EU will be regulated by the AI Act, the world's first comprehensive AI law. The AI Act which was voted by the European Parliament on 13 March and expected to enter into force in July, aims to guarantee the safety and fundamental rights of people and businesses, while strengthening AI uptake, investment and innovation across the EU. To support further these objectives, an AI innovation package has been adopted by the Commission on 24 January 2024. It contains a series of measures to support European startups and SMEs in the development of trustworthy AI that respects EU values and rules. This follows the political agreement reached in December 2023 on the AI Act.

The AI Act is designed to complement the already existing financial services *acquis*, that, while not explicitly targeted at regulating AI, is an important framework to manage the related risks in specific applications and includes several relevant requirements for financial entities when providing financial services. It does so by pursuing objectives to ensure healthy financial markets, such as transparency, market integrity, investor protection and financial stability. For example, when providing investment services, including through reliance on AI such as trading algorithms, investment firms must comply with the MIFID/R framework and the market abuse rulebook.

The aim of this consultation is not to lead to policy work that would generate new duplicative requirements in relation to the use of AI by the financial sector, or to new requirements that have the potential to stifle AI innovation.

Objective of the consultation

The present targeted consultation will inform the Commission services on the concrete application and impact of AI in financial services, considering the developments in the different financial services use cases.

The views from stakeholders will support the Commission services in their assessment of market developments and risks related to AI and in the implementation of the AI Act and existing financial services legislation in the financial sector. The consultation is focused on the objectives of the financial sector *acquis* and the AI Act and is not intended to focus on other policy objectives such as competition policy. It is intended to improve the effective implementation of these legal frameworks.

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This targeted consultation will include questions with multiple choice and open answers. The questionnaire contains three parts:

1. a first part with general questions on the development of AI

2. a second part with questions related to specific use cases in finance

3. and a third part on the AI Act related to the financial sector

For the purpose of this targeted consultation, the concept of AI corresponds to the definition of an AI system established in the AI Act, which covers "*any machine-based system designed to operate with varying levels of autonomy and that may exhibit adaptiveness after deployment and that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments*".

Target group

The targeted consultation will gather input from all financial services stakeholders including companies and consumer associations. Views are particularly welcome from financial firms that provide or deploy/use AI systems. This consultation is designed for respondents developing or planning to develop or use AI applications in financial services.

Responding to the consultation

Respondents are invited to complete the questionnaire by 13 September 2024. They are invited to elaborate by providing input and additional insights to their answers.

Outcome

Depending on the progress made, the Commission will publish a report on the findings and an analysis of the main trends and issues arising with the use of AI applications in financial services.

Please note that the information collected will not be shared with third parties and if used, it will be anonymised, in such a manner that it does not relate to any identified or identifiable financial institution.

Please note: In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact eu-digital-finance-platform@ec.europa.eu.

More information on

- this consultation

- the consultation document

- digital finance

- the digital finance platform

- [the protection of personal data regime for this consultation](#)

About you

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*Language of my contribution
- ○ Bulgarian
- ○ Croatian
- ○ Czech
- ○ Danish
- ○ Dutch
- ● English
- ○ Estonian
- ○ Finnish
- ○ French
- ○ German
- ○ Greek
- ○ Hungarian
- ○ Irish
- ○ Italian
- ○ Latvian
- ○ Lithuanian
- ○ Maltese
- ○ Polish
- ○ Portuguese
- ○ Romanian
- ○ Slovak
- ○ Slovenian
- ○ Spanish
- ○ Swedish

*I am giving my contribution as
- ○ Academic/research institution
- ○ Business association
- ○ Company/business

- ◉ Consumer organisation
- ○ EU citizen
- ○ Environmental organisation
- ○ Non-EU citizen
- ○ Non-governmental organisation (NGO)
- ○ Public authority
- ○ Trade union
- ○ Other

*First name

Martin

*Surname

Molko

*Email (this won't be published)

molko@betterfinance.eu

*Organisation name

255 character(s) maximum

BETTER FINANCE

*Organisation size

- ◉ Micro (1 to 9 employees)
- ○ Small (10 to 49 employees)
- ○ Medium (50 to 249 employees)
- ○ Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making.

24633926420-79

*Country of origin

Please add your country of origin, or that of your organisation.

4

○ Afghanistan	○ Djibouti	○ Libya	○ Saint Martin
○ Åland Islands	○ Dominica	○ Liechtenstein	○ Saint Pierre and Miquelon
○ Albania	○ Dominican Republic	○ Lithuania	○ Saint Vincent and the Grenadines
○ Algeria	○ Ecuador	○ Luxembourg	○ Samoa
○ American Samoa	○ Egypt	○ Macau	○ San Marino
○ Andorra	○ El Salvador	○ Madagascar	○ São Tomé and Príncipe
○ Angola	○ Equatorial Guinea	○ Malawi	○ Saudi Arabia
○ Anguilla	○ Eritrea	○ Malaysia	○ Senegal
○ Antarctica	○ Estonia	○ Maldives	○ Serbia
○ Antigua and Barbuda	○ Eswatini	○ Mali	○ Seychelles
○ Argentina	○ Ethiopia	○ Malta	○ Sierra Leone
○ Armenia	○ Falkland Islands	○ Marshall Islands	○ Singapore
○ Aruba	○ Faroe Islands	○ Martinique	○ Sint Maarten
○ Australia	○ Fiji	○ Mauritania	○ Slovakia
○ Austria	○ Finland	○ Mauritius	○ Slovenia
○ Azerbaijan	○ France	○ Mayotte	○ Solomon Islands
○ Bahamas	○ French Guiana	○ Mexico	○ Somalia
○ Bahrain	○ French Polynesia	○ Micronesia	○ South Africa
○ Bangladesh	○ French Southern and Antarctic Lands	○ Moldova	○ South Georgia and the South Sandwich Islands
○ Barbados	○ Gabon	○ Monaco	○ South Korea
○ Belarus	○ Georgia	○ Mongolia	○ South Sudan
◉ Belgium	○ Germany	○ Montenegro	○ Spain
○ Belize	○ Ghana	○ Montserrat	○ Sri Lanka
○ Benin	○ Gibraltar	○ Morocco	○ Sudan
○ Bermuda	○ Greece	○ Mozambique	○ Suriname
○ Bhutan	○ Greenland	○ Myanmar/Burma	○ Svalbard and Jan Mayen

○ Bolivia	○ Grenada	○ Namibia	○ Sweden
○ Bonaire Saint Eustatius and Saba	○ Guadeloupe	○ Nauru	○ Switzerland
○ Bosnia and Herzegovina	○ Guam	○ Nepal	○ Syria
○ Botswana	○ Guatemala	○ Netherlands	○ Taiwan
○ Bouvet Island	○ Guernsey	○ New Caledonia	○ Tajikistan
○ Brazil	○ Guinea	○ New Zealand	○ Tanzania
○ British Indian Ocean Territory	○ Guinea-Bissau	○ Nicaragua	○ Thailand
○ British Virgin Islands	○ Guyana	○ Niger	○ The Gambia
○ Brunei	○ Haiti	○ Nigeria	○ Timor-Leste
○ Bulgaria	○ Heard Island and McDonald Islands	○ Niue	○ Togo
○ Burkina Faso	○ Honduras	○ Norfolk Island	○ Tokelau
○ Burundi	○ Hong Kong	○ Northern Mariana Islands	○ Tonga
○ Cambodia	○ Hungary	○ North Korea	○ Trinidad and Tobago
○ Cameroon	○ Iceland	○ North Macedonia	○ Tunisia
○ Canada	○ India	○ Norway	○ Turkey
○ Cape Verde	○ Indonesia	○ Oman	○ Turkmenistan
○ Cayman Islands	○ Iran	○ Pakistan	○ Turks and Caicos Islands
○ Central African Republic	○ Iraq	○ Palau	○ Tuvalu
○ Chad	○ Ireland	○ Palestine	○ Uganda
○ Chile	○ Isle of Man	○ Panama	○ Ukraine
○ China	○ Israel	○ Papua New Guinea	○ United Arab Emirates
○ Christmas Island	○ Italy	○ Paraguay	○ United Kingdom
○ Clipperton	○ Jamaica	○ Peru	○ United States

- Cocos (Keeling) Islands
- Japan
- Philippines
- United States Minor Outlying Islands

- Colombia
- Jersey
- Pitcairn Islands
- Uruguay

- Comoros
- Jordan
- Poland
- US Virgin Islands

- Congo
- Kazakhstan
- Portugal
- Uzbekistan

- Cook Islands
- Kenya
- Puerto Rico
- Vanuatu

- Costa Rica
- Kiribati
- Qatar
- Vatican City

- Côte d'Ivoire
- Kosovo
- Réunion
- Venezuela

- Croatia
- Kuwait
- Romania
- Vietnam

- Cuba
- Kyrgyzstan
- Russia
- Wallis and Futuna

- Curaçao
- Laos
- Rwanda
- Western Sahara

- Cyprus
- Latvia
- Saint Barthélemy
- Yemen

- Czechia
- Lebanon
- Saint Helena Ascension and Tristan da Cunha
- Zambia

- Democratic Republic of the Congo
- Lesotho
- Saint Kitts and Nevis
- Zimbabwe

- Denmark
- Liberia
- Saint Lucia

*Field of activity or sector (if applicable)
- ☐ Accounting
- ☐ Auditing
- ☐ Banking
- ☐ Credit rating agencies
- ☐ Insurance
- ☐ Pension provision
- ☐ Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)
- ☐ Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)
- ☐ Social entrepreneurship
- ☐ Other
- ☑ Not applicable

The Commission will publish all contributions to this public consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **Fo r the purpose of transparency, the type of respondent (for example, 'business association, 'consumer association', 'EU citizen') country of origin, organisation name and size, and its transparency register number, are always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

* Contribution publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

○ **Anonymous**

Only organisation details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

◉ **Public**

Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

☑ I agree with the [personal data protection provisions](#)

Part 1: General questions on AI applications in financial services

Question 1. Are you using or planning to use AI systems?

○ Yes, we are already using AI systems

○ Not yet, but we plan to use AI systems within the next 2 years

○ No, we are not using it and we don't plan to use AI systems within the next 2 years

◉ Don't know / no opinion / not applicable

Question 2. What are the **positive** things you encounter when using AI?

Please explain and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 3. What are the **negative** things you encounter when using AI?

Please explain and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Reliability, Transparency, Explainability

AI systems can be unreliable as they may produce inaccurate, false, or misleading information, particularly in financial information (and potentially extending to recommendation). This often results from inference bias, data gaps (lack of data of access thereof) but also misinterpretation of certain' non-standard prompts. This growing concern stems from the use of large language models (LLMs) by retail investors, as general-purpose AI, which is widely available online, tends to provide specific recommendations instead of general information, often leading to misguided outcomes. The undertrained model, or those not specifically trained for specific use cases in finance, or LLMs that haven't been properly assessed or stress-tested should generally not be relied upon for investment advice, but rather used to educate consumers on general concepts with clear warnings (and restriction) about their limitations in providing suitable financial advice. AI is prompt-dependent, and this cannot be overlooked, as outcomes are tied to the quality and framing of inputs, especially in general AI use cases. To ensure financial health and informed use, it is crucial to provide awareness, education, and clear information on AI's limitations and risks in financial services by fostering a consumer-centric AI governance.

As identified by regulators and required under the AI Act for certain risk-based services, understanding how AI systems function in financial services is essential. Consumers and investors need to know how AI algorithms affect their investments, risk assessments, and pricing for services like insurance and creditworthiness assessments. While current EU regulations focus on firms understanding AI outputs, transparency should be extended to consumers whose data is being processed.

Regulators should require firms to offer clear and enforceable explanations of AI processes, including data collection practices, to build trust and enable better decision-making by consumers. This would also help improve AI models through user feedback and participation.

"AI-Washing"

There is a risk of fake AI or AI-washing, where services are automated based on basic algorithms but marketed as AI-driven, without true adaptive capabilities. This can lead to consumer mistrust or misleading advertising. Some robo-advisors or services claim to use AI when they don't, undermining expectations. In financial services, scam tactics often leverage popular terms like "Artificial Intelligence" or "crypto-assets" to deceive consumers.

Bias, Discrimination, Ethical Use, Consent

Bias in AI models, privacy concerns, and effective consent must be addressed. AI's reliance on historical data can perpetuate bias, leading to unfair outcomes like creditworthiness assessments that disadvantage certain groups. Additionally, misinterpreting behaviours may result in unjust decisions.

Consumers often unknowingly consent to data processing, especially when it's buried in terms and conditions. Regulators should mandate clear and informed consent mechanisms that empower consumers to make conscious decisions about their data under FIDA and GDPR, including human review options for AI-driven outcomes.

Regulation, Oversight, and Cross-Border Arbitrage

Cross-border regulatory alignment is essential to prevent firms from exploiting weaker rules in different regions (regulatory arbitrage). Consistent oversight by NCAs in the EU is necessary to maintain uniform AI standards in financial services. Regulatory sandboxes can be a proactive way to safely test new AI applications, ensuring regulation keeps up with technological advances while mitigating risks.

Question 4. Will you be deploying AI for new or additional processes within your organisation?

○ Yes

○ No

○ Don't know / no opinion / not applicable

Question 5. Are you developing or planning to develop in-house AI applications?

○ Yes

○ No

● Don't know / no opinion / not applicable

Question 6. Which tools are you using to develop your AI applications?

Examples: machine learning, neural networks, natural language processing, large language models, etc.

Please explain and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Benefits of using AI applications in financial services

Question 7. Please score the following benefits from most significant (10) to least significant (1):

	1 -	2	3	4	5	6	7	8	9	10 +	Don't know - No opinion - Not applicable
Fraud detection: AI algorithms can analyse large amounts of data to detect patterns and anomalies that may indicate fraudulent activity, helping to reduce financial losses for businesses and customers.	○	○	○	○	○	○	○	○	○	●	○
Risk management: AI can analyse and predict market trends, assess credit risks, and identify potential investment opportunities, helping financial institutions make more informed decisions and manage risks more effectively.	○	○	○	○	○	○	○	○	●	○	○
Automation of routine tasks: AI can automate repetitive tasks such as data entry, transaction processing, and document verification, freeing up time for employees to focus on more complex and strategic activities.	○	○	○	○	○	○	○	○	●	○	○
Cost savings: by automating processes and improving efficiency, AI can help financial institutions reduce operational costs.	○	○	○	○	○	○	○	●	○	○	○
Personalised financial advice: AI can analyse customer data to provide personalised financial advice and recommendations, helping customers make better financial decisions and improve their financial well-being.	○	○	○	○	○	●	○	○	○	○	○

Statement	1	2	3	4	5	6	7	8	9	10	11
Compliance and regulatory support: AI can help financial institutions stay compliant with regulations by analysing and interpreting complex regulatory requirements and monitoring transactions for suspicious activities.	○	○	○	○	○	○	○	○	●	○	○
Enhanced decision-making: AI can analyse large amounts of data and provide insights that can help financial institutions make better investment decisions, assess credit risks, and optimise their operations.	○	○	○	○	○	○	●	○	○	○	○
Improved security: AI can enhance security measures by identifying potential security threats, detecting unusual patterns of behaviour, and providing real-time alerts to prevent security breaches.	○	○	○	○	○	○	○	○	●	○	○
Streamlined processes: AI can streamline various financial processes, such as loan underwriting, account opening, and claims processing, leading to faster and more efficient services for customers.	○	○	○	●	○	○	○	○	○	○	○
Improved customer service: AI can be used to provide personalised and efficient customer service, such as chatbots that can answer customer queries and provide assistance 24/7.	○	○	○	○	○	●	○	○	○	○	○

Question 8. What are the main benefits/advantages you see in the development of your AI applications?

Please explain and give examples when possible:

Consumers and retail investors believe that AI can bring significant benefits, though many feel these have not yet been fully delivered. A consumer-centric approach by raising awareness are essential for sound AI adoption. One of the benefits is the ability of AI to assist in investor experience by providing educational outputs that enable layering of information. This can be used through chatbot systems or leveraged to perform specific queries that generate explainers or summaries of a product or service, particularly when this information is not directly provided by the firm or mandated by law, serving as a complement to the Key Information Document (KID).

AI also has potential in tax management systems, which can streamline the investor experience by simplifying compliance and enhancing user interaction. Additionally, AI can offer an overall analysis of an investor's financial assets by gathering and retranscribing heterogeneous information, making it easier for users to understand and manage their portfolios.

In specific services, such as robo-advisors, AI can improve the user experience by providing perceived objectivity of algorithm-driven advice, as it may reduce concerns over conflicts of interest or biases often associated with human advisors. This also contributes to increased financial inclusion and literacy, as AI systems, with their online layering capability, make information more accessible and comprehensible to a wider audience.

Question 9. Please score the following challenges from most significant (10) to least significant (1):

	1 -	2	3	4	5	6	7	8	9	10 +	o ap
Lack of access to the required data, in general.	○	○	○	○	○	○	○	○	●	○	
Lack of access to the data in an appropriate digital format.	○	○	○	○	○	○	○	○	●	○	

	1	2	3	4	5	6	7	8	9	10
Lack of access to appropriate data processing technology, e. g. cloud computing.	○	○	○	○	○	○	●	○	○	○
Data privacy: it is crucial to ensure that sensitive financial information remains confidential.	○	○	○	○	○	○	○	○	○	●
Lack of trust in relation to performance levels/ security aspects/ certified solutions/ reliability of the technology.	○	○	○	○	○	○	○	○	○	●
Regulatory compliance with financial regulation: financial services are heavily regulated and not all types of AI applications are in line with requirements under these regulations.	○	○	○	○	○	○	○	○	○	●

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Statement	1	2	3	4	5	6	7	8	9	10
Innovation: the ability to leverage on combining AI with other technologies to enhance its potential and generate new services?	○	○	○	○	○	○	○	○	●	○
Transparency and explainability: AI algorithms can be complex and opaque. It can be difficult for humans to understand how AI arrives at certain conclusions, which can create issues of trust and accountability.	○	○	○	○	○	○	○	○	●	○
Bias and discrimination: AI models are trained using data, and if the data is biased, the AI model can also be biased, leading to unfair outcomes.	○	○	○	○	○	○	○	○	○	●
Reputational risk from undesirable AI behavior or output.	○	○	○	○	○	○	○	○	●	○

	1	2	3	4	5	6	7	8	9	10
Liability risks: legal uncertainty on who bears the liability in case of damages generated by the malfunctioning of the AI applications.	○	○	○	○	○	○	○	○	○	●
Skills gap: the development of AI requires specific tech skills, and there is a shortage of such skills.	○	○	○	○	○	○	○	○	○	○
Dependability: as financial institutions rely more and more on AI; the dependability of these systems becomes paramount. Any malfunction or error (e.g. in risk management) can lead to significant financial losses.	○	○	○	○	○	○	○	○	○	●

	1	2	3	4	5	6	7	8	9	10
Job displacement: the use of AI can potentially automate certain roles in the financial sector leading to job displacement.	○	○	○	○	○	○	○	●	○	○
Cybersecurity: AI systems could be targeted by cybercriminals, leading to potential data breaches or manipulation of AI systems.	○	○	○	○	○	○	○	○	●	○
Integration challenges: integrating AI technologies with existing systems and processes can be complex and expensive.	○	○	○	○	○	○	●	○	○	○
Additional cost: the deployment and use of AI requires up-front investment and ongoing resources (acquiring or developing applications, keeping them up to date, training/skills).	○	○	○	○	○	○	●	○	○	○

Question 10. What are the main difficulties/obstacles you are facing in the development of your AI applications?

Please explain and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Ensuring transparency and explainability is a significant challenge, particularly in areas like investment advice and credit scoring. Both consumers and regulators demand clear reasoning behind AI-driven decisions, but the inherent complexity of many AI models makes this difficult to achieve. AI systems also require constant re-evaluation to ensure they remain unbiased over time, as continuous data accumulation can cause shifts that introduce discrimination.

The quality of data used for training AI models is another obstacle. AI is only as effective as the data it processes, and poor-quality or incomplete data can lead to inaccurate predictions, decisions, and recommendations. Furthermore, AI models are susceptible to algorithmic bias and can present false or misleading information as factual, a phenomenon known as "hallucinations."

AI's reliance on vast amounts of personal and financial data also introduces cybersecurity risks. Systems are vulnerable to data breaches and misuse, where malicious actors could exploit AI for harmful purposes, including cyberattacks, market manipulation, and the spread of misinformation. There is also the risk of selling sensitive data without consumers' consent, raising significant privacy concerns.

Opaque decision-making is another difficulty: many AI algorithms operate as "black boxes," (as well as ADM) making it hard to understand or explain decisions, which undermines trust and accountability. Excessive reliance on AI may also reduce human oversight, leading to unchecked errors or unintended consequences. In cases such as creditworthiness assessments, consumers should always have the option to request human review of AI-driven decisions.

Bias and discrimination are further concerns. AI can perpetuate or even amplify existing biases in financial decision-making, resulting in unfair treatment of certain groups based on characteristics such as race, gender, or socioeconomic status. This can lead to financial exclusion or discrimination in areas like lending, credit scoring, and insurance underwriting. There is also a risk that AI may exploit consumer behavior, such as encouraging overspending or unnecessary debt through targeted advertising.

Another issue is accessibility. Not all consumers have equal access to the technology required to use AI-driven financial tools. Digital literacy gaps may prevent some consumers from benefiting from AI applications, which could exacerbate the digital divide.

Loss of liability in the chain of AI development and use is a major concern, as raised in research by BETTER FINANCE. Determining who is responsible when AI systems cause harm can be complex, with liability potentially spread across developers, financial institutions, and those integrating AI into their services. This lack of clarity can complicate the process of seeking redress for consumers affected by AI errors. Clear guidelines on accountability are necessary to protect consumers and maintain trust in AI-driven financial services.

Additionally, AI-washing presents a risk, where basic automated processes are falsely marketed as AI-driven, undermining consumer confidence. Ethical use of AI requires a focus on fairness, transparency, and accountability to avoid misleading advertising or practices that could harm consumers.

From a regulatory perspective, cross-border alignment is essential to prevent firms from exploiting regulatory arbitrage, where they take advantage of weaker rules in certain regions. Regulatory sandboxes could allow for safe testing of AI applications, ensuring regulations evolve alongside technological advancements while maintaining consumer protection.

Lastly, consumer trust remains a challenge. Many consumers remain wary of AI-driven financial decisions, due to concerns about data privacy, bias, and the lack of human oversight. Ensuring clear liability frameworks and transparent AI practices is essential for maintaining consumer confidence in AI applications.

Question 11. Please rank the potential negative impact that widespread use of AI can have on the following risks, 8 being the highest risk:

	1	2	3	4	5	6	7	8

Operational risks	○	⦿	○	○	○	○	○	○
Market risks	○	○	○	○	⦿	○	○	○
Liquidity risks	○	○	○	⦿	○	○	○	○
Financial stability risks	○	○	○	○	○	⦿	○	○
Market integrity risks	○	○	○	○	○	○	⦿	○
Investor protection risk	○	○	○	○	○	○	○	⦿
Consumer protection risk	○	○	⦿	○	○	○	○	○
Reputational risk	⦿	○	○	○	○	○	○	○

Please explain your answer to question 11 and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 12. AI may affect the type and degree of dependencies in financial markets in certain circumstances, especially where a high number of financial entities rely on a relatively small number of third-party providers of AI systems.

Do you see a risk of market concentration and/or herding behavior in AI used for financial services?

⦿ Yes

○ No

○ Don't know / no opinion / not applicable

Please explain in which areas of AI you see a risk of concentration:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Given the high resource and technical requirements of AI, there is a notable risk of market concentration in financial services, increasingly dominated by a small number of large players. This concentration could lead to uniformity in decision-making, heightening systemic risk for financial markets. Reliance on a few dominant providers may result in the homogenisation of AI-driven models, with financial institutions using similar algorithms for trading (including high-frequency trading), credit scoring, and risk assessments. This poses a risk of herding behaviour, where firms make decisions based on the same underlying AI models, inadvertently magnifying biases and exacerbating market disruptions.

The dominance of large tech firms in AI development can lead to interconnected decisions, shared technological flaws, limited innovation, and reduced consumer choice. While it may create efficiencies, it also risks reinforcing too-big-to-fail scenarios, shifting economic power toward these firms and undermining competition and consumer outcomes. However, encouraging more firms to specialise in AI models could foster competition in this area.

At the individual user level, there is a concern that AI will be seen as the sole 'objective' guide, fostering herd-like behaviour among consumers and investors. As AI systems are increasingly viewed as trustworthy and neutral, users may over-rely on them, overlooking the risks or biases inherent in these models. This could lead to a reduced emphasis on human oversight, further entrenching a collective blindness to unforeseen risks.

AI and compliance burden

Question 13. Can AI help to reduce the reporting burden?

- ◉ Yes
- ○ No
- ○ Don't know / no opinion / not applicable

Please explain in which areas you see AI reducing reporting burden:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As stated one of AI attribute is efficiently in sorting and analyzing heterogeneous data sets. Therefore, AI can help reduce the reporting burden. Automation and consolidation of complex datasets, streamline data extraction, and generate accurate reports should simplifying compliance processes and reducing manual effort or even mistakes if proper flags systems are implemented. However, these streamlined processes still require oversight by trained individuals, and reporting liability should remain enforceable. Additionally, AI could help not just meet but also expand reporting capabilities beyond legal requirements.

Question 14. Do you think AI can facilitate compliance with multiple regulatory standards across the EU and thus facilitate market integration or regulatory compliance?

For example, would you consider it feasible to use AI for converting accounting and financial statements developed under one standard (e. g. local GAAP) to another standard (e.g. IFRS)?

○ Yes

○ No

◉ Don't know / no opinion / not applicable

Please explain and elaborate on your answer to question 14 and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Data access

Question 15. In order to develop AI applications, do you need access to external datasets that you currently don't have access to?

○ Yes

○ No

○ Don't know / no opinion / not applicable

Please explain your answer to question 15:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 16. Which datasets would you need to develop meaningful AI applications and for which purpose/use case?

Please explain and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 17. Do you face hurdles in getting access to the data you need to develop AI applications in financial services?

- Yes
- No
- Don't know / no opinion / not applicable

Question 18. Are you familiar with the EU Data Hub, a data sharing tool for supervisors and financial companies?

- Yes
- No
- Don't know / no opinion / not applicable

Question 19. Should public policy measures (e.g. legislative or non-legislative) encourage the exchange of data between market participants, which can be used to train AI systems for use cases in finance?

- ⊙ Yes
- ⊙ No
- ⊙ Don't know / no opinion / not applicable

Business model

Question 20. Has AI changed your business model?

- ⊙ Yes
- ⊙ No
- ⊙ Don't know / no opinion / not applicable

Question 21. Which parts of the value chain are being improved with AI?

Please explain and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 22. Are there functions that cannot/would not be improved by AI?

- ⊙ Yes
- ⊙ No
- ⊙ Don't know / no opinion / not applicable

General purpose AI

For the purpose of this targeted consultation, respondents should consider general purpose AI as defined in <u>the AI Act</u> (article 3(63)), i.e. meaning any "*AI model, including where such an AI model is trained with a large amount of data using self-supervision at scale, that displays significant generality and is capable of competently performing a wide range of distinct tasks regardless of the way the model is placed on the market and that can be integrated into a variety of downstream systems or applications, except AI models that are used for research, development or prototyping activities before they placed on the market*".

Question 23. Do you use general purpose AI models, including generative AI, and their respective reference architectures?

- ○ Yes
- ○ Not yet, but we plan to use general purpose AI models within the next 2 years
- ○ No
- ○ Don't know / no opinion / not applicable

Question 24. How do you plan to operationalise and adopt general purpose AI at scale?

Please explain and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 25. How does the increasing availability of general purpose AI models, including generative AI applications, impact the need to access new datasets?

Please explain and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 26. Compared to traditional AI systems such as supervised machine learning systems, what additional opportunities and risks are brought by general purpose AI models?

Please explain and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 27. In which areas of the financial services value chain do you think general purpose AI could have a greater potential in the short, medium and long term?

Please explain and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AI Governance in relation to non-high risk use cases, and which are not subject to specific requirements under the AI Act

Question 28. Have you developed, or are you planning to develop an AI strategy or other relevant guidelines within your organisation for the use of AI systems?

- ○ Yes
- ○ No
- ○ Don't know / no opinion / not applicable

Question 29. Have you put in place or are you planning to put in place governance and risk management measures to ensure a responsible and trustworthy use of AI within your organisation?

- ○ Yes
- ○ No
- ○ Don't know / no opinion / not applicable

Forecasts

Question 30. What are the main evolutions to be expected in AI in finance?

Please explain and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 31. Which financial services do you expect to be the most impacted by AI?

Please explain and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Personalised financial services and asset management, going beyond traditional robo-advisory services, are expected to undergo a profound transformation due to AI, particularly in automated portfolio management and risk analysis. Currently, robo-advisors mainly use standardised algorithms to automate client questionnaires and provide investment recommendations. However, the development of more sophisticated AI and the integration of third-party data have yet to be fully explored, raising concerns about the accountability and intelligibility of these algorithms. Consumers often lack awareness of the underlying automation technology, leading to misunderstandings about the investment advice process.

While AI has the potential to enhance personalisation by tailoring financial products to individual needs, it is crucial to recognise that "tailored" advice may not always equate to "suitable" advice for clients; partial data sharing along with marketing practices may remain an issue. The linking of open banking and open finance could further impact robo-advisory services by providing access to a wider range of customer data from banks, financial institutions, and third parties. While this expansion offers opportunities for more tailored advice, it also introduces new risks and complexities, particularly around the transparency of the recommendation process and consumer protection. ESMA has already highlighted concerns regarding the possible misuse of consumer data by robo-advisors, emphasising the need for ongoing oversight.

Insurance services are also expected to be significantly impacted by AI, especially in pricing, underwriting, and claims processing. Although AI can introduce various efficiencies, it may also lead to biases and mispriced premiums, affecting fairness and outcomes for consumers. Similarly, the securities markets are poised for substantial changes, with AI influencing algorithmic trading and market surveillance. While these applications could bring efficiency gains, they also pose market manipulation risks. For these higher-risk systems, it is crucial for authorities and NCAs, alongside ESMA, EIOPA, and the EBA, to rigorously monitor AI algorithms to ensure fair outcomes and safeguard consumer interests.

Question 32. Do you have any additional information to share?

Please explain and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Part 2: Questions related to specific use cases in financial services

Question 34. In which sector(s) are you using AI?

Please select as many answers as you like

- ☑ Banking and payments
- ☑ Market infrastructure
- ☑ Securities markets
- ☑ Insurance and pensions
- ☑ Asset management
- ☐ Other

Questions per sector

Banking and payments

In banking, possible AI use cases range from credit risk assessment and credit scoring to advice, compliance, early warning (for example of unusual social media activity / massive withdrawal of deposits), fraud/AML and customer service.

Depending on the specific use cases, relevant legislation would include:

- the AI Act (for the identified high-risk use cases such as creditworthiness and credit-scoring of natural persons)

- the Consumer Credit Directive and the Mortgage Credit Directive (creditworthiness of natural persons and robo-advice)

- the Capital Requirements Regulation (CRR) (for example provisions on risk management in relation to credit risk assessment)

- the Payment Services Directives (PSD) (for example for fraud detection)

- and the Anti-Money Laundering Directive (AMLD) (for example for AML risk use cases)

Question BANKING 1. For which use case(s) are you using/considering using AI?

Examples: risk assessment, credit scoring, robo-advice, sustainable finance, personal finance management, regulatory compliance, fraud detection, AML, customer service, etc.

Please explain and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question BANKING 2. What are the opportunities that AI brings to your use case?

Please explain and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question BANKING 3. What are the main challenges and risks that AI brings to your use case (e.g discrimination, opacity of the AI application developed, difficult to control/supervise it, etc.)?

Please explain and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AI in banking presents significant challenges, particularly around opacity and the difficulty of explaining how models reach decisions, especially in credit scoring and loan approval. Both consumers and firms often struggle to understand or contest AI-generated decisions, raising concerns about accountability and transparency. Moreover, AI systems are prone to discrimination, especially when trained on biased datasets. This can lead to unfair outcomes for specific demographics, potentially exacerbating financial exclusion and reinforcing existing inequalities.

Supervising and controlling AI in banking is complex, as these systems are typically integrated into intricate workflows, such as trading and fraud detection. This integration makes it challenging to ensure full compliance, particularly when AI systems process or store personal data without proper permissions. Additionally, AI's vulnerability to malicious attacks poses significant security risks, including disrupted operations and financial losses. The lack of transparency in AI decision-making processes further complicates the situation, as it is often difficult to trace the source of data or understand how AI outputs are produced.

The most intricate challenge lies in how AI systems learn and replicate biases present in their training data, leading to unfair decision-making and discriminatory outcomes. Attempts to prevent bias or self-regulate can sometimes introduce new biases, creating unintended discriminatory mechanisms. Furthermore, weak security measures can allow AI to be exploited for nefarious purposes like money laundering and insider trading, with these activities often occurring rapidly and potentially going undetected due to the speed and complexity of AI processes.

Question BANKING 4. What is the main barrier to developing AI in your use case (e.g. lack of skills and resources, readiness of the technology, high regulatory costs for compliance with the relevant frameworks, etc.)?

Please explain and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question BANKING 5. Does AI reduce or rather increase bias and discrimination in your use case?

- ⊙ Yes
- ⊙ No
- ⊙ Don't know / no opinion / not applicable

Please explain your answer to question BANKING 5 and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question BANKING 6. Has general purpose AI opened new possibilities or risks in your use case?

- ⊙ Yes
- ⊙ No
- ⊙ Don't know / no opinion / not applicable

Please explain your answer to question BANKING 6 and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question BANKING 7. On whom do you rely for the development of your AI solutions?

◌ External providers

◌ In-house applications

◌ Partial collaboration with external providers

◌ Don't know / no opinion / not applicable

Please explain your answer to question BANKING 7 and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Market infrastructure

According to the European securities and markets authority (ESMA), AI is currently not widely used by financial market infrastructures in their operations. However, use of AI systems in post-trading is emerging and will likely become more relevant in the future, such as for predicting settlement fails, anomaly detection, data verification and data quality checks.

Question MARKET INFRASTRUCTURE 1. For which use case(s) are you using /considering using AI?

Examples: risk management, sustainable finance, regulatory compliance, etc.

Please explain and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question MARKET INFRASTRUCTURE 2. What are the opportunities that AI brings to your use case?

Please explain and give examples when possible:
5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question MARKET INFRASTRUCTURE 3. What are the main challenges and risks that AI brings to your use case (e.g discrimination, opacity of the AI application developed, difficult to control/supervise it, etc.)?

Please explain and give examples when possible:
5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question MARKET INFRASTRUCTURE 4. What is the main barrier to developing AI in your use case (e.g. lack of skills and resources, readiness of the technology, high regulatory costs for compliance with the relevant frameworks, etc.)?

Please explain and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question MARKET INFRASTRUCTURE 5. Does AI reduce or rather increase bias and discrimination in your use case?

○ Yes

○ No

○ Don't know / no opinion / not applicable

Please explain your answer to question MARKET INFRASTRUCTURE 5 and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question MARKET INFRASTRUCTURE 6. Has general purpose AI opened new possibilities or risks in your use case?

○ Yes

○ No

○ Don't know / no opinion / not applicable

Please explain your answer to question MARKET INFRASTRUCTURE 6 and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question MARKET INFRASTRUCTURE 7. On whom do you rely for the development of your AI solutions?

○ External providers

○ In-house applications

○ Partial collaboration with external providers

○ Don't know / no opinion / not applicable

Please explain your answer to question MARKET INFRASTRUCTURE 7 and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Securities markets

In securities markets, possible AI use cases range from risk assessment to trade execution (e.g. algorithmic trading), robo-advice, regulatory compliance and market abuse to customer service. Depending on the specific use cases, relevant legislation would include, for example:

- Markets in Financial Instruments Directive (MiFID) (for example on trading and robo-advice)

- and Market Abuse Regulation (MAR) (for example for market abuse detection use cases)

Robo advice: According to the upcoming AI Act, there are specific transparency requirements for AI systems which are not high-risk. The requirements imply that these AI systems are developed and used in a way that allows making humans aware that they communicate or interact with an AI system. This would for example apply to use cases such as robo-advice or other customer personalised AI applications.

Question SECURITIES 1. For which use case(s) are you using/considering using AI?

Examples: risk assessment, individual or collective portfolio management, algorithmic trading, robo-advice, sustainable finance, personal finance management, regulatory compliance, customer service, market abuse detection, etc.

Please explain and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question SECURITIES 2. What are the opportunities that AI brings to your use case?

Please explain and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question SECURITIES 3. What are the main challenges and risks that AI brings to your use case (e.g discrimination, opacity of the AI application developed, difficult to control/supervise it, etc.)?

Please explain and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In securities markets, AI can increase the risk of market manipulation and insider trading, particularly when trading algorithms interact unpredictably (firms' processes and market connection). An AI trained for profit may override its compliance settings. The opacity of AI systems complicates compliance with regulations like MiFID and Market Abuse Regulation (MAR), exposing firms to reputational risks and market risk.

Question SECURITIES 4. What is the main barrier to developing AI in your use case (e.g. lack of skills and resources, readiness of the technology, high regulatory costs for compliance with the relevant frameworks, etc.)?

Please explain and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question SECURITIES 5. Does AI reduce or rather increase bias and discrimination in your use case?

- ○ Yes
- ○ No
- ○ Don't know / no opinion / not applicable

Please explain your answer to question SECURITIES 5 and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question SECURITIES 6. Has general purpose AI opened new possibilities or risks in your use case?

- ○ Yes
- ○ No
- ○ Don't know / no opinion / not applicable

Please explain your answer to question SECURITIES 6 and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question SECURITIES 7. On whom do you rely for the development of your AI solutions?

- ○ External providers
- ○ In-house applications
- ○ Partial collaboration with external providers
- ○ Don't know / no opinion / not applicable

Please explain your answer to question SECURITIES 7 and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question SECURITIES 8. 'Herding effects', where trading is dominated by trading algorithms that make decisions based on similar model calibrations, are often considered as a risk for financial markets.

Do you believe that the use of AI has increased this risk?

- ○ Yes
- ○ No
- ○ Don't know / no opinion / not applicable

Please explain your answer to question SECURITIES 8.1 and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question SECURITIES 9. Machine learning trading algorithms can interact with each other in unpredictable ways on the market.

Do you see any risks to market integrity and efficiency stemming from these interactions, such as collusion that can amount to market manipulation or sudden bouts of illiquidity where trading algorithms stop trading in response to unusual patterns of market behaviour?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question SECURITIES 9 and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question SECURITIES 10. Can robo-advice based on general purpose AI, which can sometimes produce 'hallucinations', i.e. nonsensical or inaccurate replies, be made compatible with regulatory requirements applicable to investment advice?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question SECURITIES 10 and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question SECURITIES 11. What precautions will you put in place to ensure robo-advice is developed in compliance with the requirements for investment advice?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Insurance and pensions

In insurance, possible AI use cases range from insurance pricing and underwriting to advice, compliance, fraud detection/AML and customer service. Depending on the specific use cases, relevant legislation would include:

- the AI Act (for the identified high risk use-cases such as life and health insurance risk assessment and pricing in relation to natural persons)

- the Insurance Intermediation Directive (IDD) (for example robo-advice)

- Solvency II and institutions for occupational retirement provisions (IORPs) (for example provisions on risk management in relation to insurance risk assessment)

- and the Anti-Money Laundering Directive (AMLD) (for example AML use cases)

Question INSURANCE 1. For which use case(s) are you using/considering using AI?

Examples: risk management, insurance pricing and underwriting, setting capital requirements/technical provisions, robo-advice, regulatory compliance, sustainable finance, fraud detection, AML, customer service, sales and distribution, claims management, etc.

Please explain and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question INSURANCE 2. What are the opportunities that AI brings to your use case?

Please explain and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question INSURANCE 3. What are the main challenges and risks that AI brings to your use case (e.g discrimination, opacity of the AI application developed, difficult to control/supervise it, etc.)?

Please explain and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

AI in insurance can increase bias, particularly in pricing and underwriting, where complex models may lead to exclusionary practices or unfair treatment of certain consumer segments. A key challenge is "overfitting", linked to the curse of dimensionality; excessive data can result in inaccurate models, producing mispriced premiums and reducing model reliability. When AI systems are driven by optimisation, they may trigger unlawful activities or operate outside legal frameworks, further complicating risk assessments. As the amount of data grows, models can become less accurate or more exclusive, threatening market stability and the risk-sharing mechanism of insurance. This could result in consumers receiving ill-suited coverage or being outright excluded. Without proper oversight, AI-driven systems risk excluding vulnerable consumers, undermining market fairness and the foundational principles of risk-sharing. Moreover, a tailored service to clients' data set may not always lead to the most suitable product offered – AI process should be in place to prevent mis-selling.

Question INSURANCE 4. What is the main barrier to developing AI in your use case (e.g. lack of skills and resources, readiness of the technology, high regulatory costs for compliance with the relevant frameworks, etc.)?

Please explain and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question INSURANCE 5. Does AI reduce or rather increase bias and discrimination in your use case?

◯ Yes

No

Don't know / no opinion / not applicable

Please explain your answer to question INSURANCE 5 and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question INSURANCE 6. How can insurers ensure that the outcomes of AI systems are not biased?

Please explain and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question INSURANCE 7. Has general purpose AI opened new possibilities or risks in your use case?

Yes

No

Don't know / no opinion / not applicable

Please explain your answer to question INSURANCE 7 and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question INSURANCE 8. On whom do you rely for the development of your AI solutions?

- ○ External providers
- ○ In-house applications
- ○ Partial collaboration with external providers
- ○ Don't know / no opinion / not applicable

Please explain your answer to question INSURANCE 8 and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Asset management

In asset management, possible AI use cases range from risk and portfolio management, robo-advice, regulatory compliance and market abuse to customer service. Depending on the specific use cases, relevant legislation would include, for example:

- Undertakings for the Collective Investment in Transferable Securities (UCITS)

- Alternative Investment Fund Managers Directive (AIFMD)

- or Markets in Financial Instruments Directive (MiFID)

Question ASSET MANAGEMENT 1. For which use case(s) are you using /considering using AI?

Examples: risk management, individual and collective portfolio management, regulatory compliance, trades monitoring, robo-advice, customer service, sustainable finance, etc.

Please explain and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question ASSET MANAGEMENT 2. What are the opportunities that AI brings to your use case?

Please explain and give examples when possible:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question ASSET MANAGEMENT 3. What are the main challenges and risks that AI brings to your use case (e.g discrimination, opacity of the AI application developed, difficult to control/supervise it, etc.)?

Please explain and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Opacity is a major concern in AI-driven portfolio management, as clients often cannot fully understand how their assets are managed or why specific decisions are made. Bias in AI models can lead to discriminatory investment strategies, potentially disadvantaging certain investors or favoring others based on flawed data assumptions. Additionally, the complexity of AI systems makes supervision and control challenging, increasing the risk of unforeseen outcomes that may not align with investor interests.

Question ASSET MANAGEMENT 4. What is the main barrier to developing AI in your use case (e.g. lack of skills and resources, readiness of the technology, high regulatory costs for compliance with the relevant frameworks, etc.)?

Please explain and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question ASSET MANAGEMENT 5. Does AI reduce or rather increase bias and discrimination in your use case?

- ◉ Yes
- ◉ No

○ Don't know / no opinion / not applicable

Please explain your answer to question ASSET MANAGEMENT 5 and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question ASSET MANAGEMENT 6. Has general purpose AI opened new possibilities or risks in your use case?

○ Yes

○ No

○ Don't know / no opinion / not applicable

Please explain your answer to question ASSET MANAGEMENT 6 and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question ASSET MANAGEMENT 7. On whom do you rely for the development of your AI solutions?

○ External providers

○ In-house applications

○ Partial collaboration with external providers

○ Don't know / no opinion / not applicable

Please explain your answer to question ASSET MANAGEMENT 7 and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question ASSET MANAGEMENT 8. When delegating functions to third parties, do you check the extent to which the provisions of services will entail the use of AI?

◉ Yes

◉ No

◉ Don't know / no opinion / not applicable

Please explain your answer to question ASSET MANAGEMENT 8 and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Part 3: AI Act

In December 2023 the European Parliament and the Council reached a provisional political agreement on the [first comprehensive AI framework, put forward by the Commission on 21 April 2021](). The regulation was adopted by the European Parliament on 13 March 2024 and will enter into force later this spring once it has been published in the Official Journal of the EU. This horizontal *acquis* is applicable across all economic sectors.

The [AI Act]() defines an AI system as "a machine-based system designed to operate with varying levels of autonomy, that may exhibit adaptiveness after deployment and that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments". Recital 11 further sets out the reasons for this definition, notably setting out that it is based on key characteristics that distinguish it from simpler traditional software systems of programming approaches.

The AI Act will establish two high risk use cases for the financial sector:

1. AI systems intended to be used to evaluate the creditworthiness of natural persons or establish their credit score, with the exception of those AI systems used for the purpose of detecting financial fraud

2. 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 aim of this section is to identify which are your specific needs in order for the Commission to be able to adequately assist you with appropriate guidance for the implementation of the upcoming AI framework in your specific market areas, especially in particular to the high-risk use cases identified.

Scope and AI definition

Question 33. Which of the following use cases that could fall into the categorisation of high-risk are potentially relevant to your activity?

- ○ AI systems intended to be used to evaluate the creditworthiness of natural persons or establish their credit score
- ○ AI systems intended to be used for risk assessment and pricing in relation to natural persons in the case of life and health insurance
- ○ Both
- ○ None
- ● Don't know / no opinion / not applicable

Question 35. Please explain the overall business and/or risk management process in which the high-risk use case would be integrated and what function exactly the AI would carry out:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 36. Are there any related functions AI would carry out which you would suggest distinguishing from the intended purpose of the high-risk AI systems in particular to the use cases identified in question 34?

- ○ Yes
- ○ No
- ● Don't know / no opinion / not applicable

Please explain your answer to question 36 and give examples when possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 37. Please explain why these functions would/should in your view not be covered by the high-risk use cases set out in the AI act either because they would not be covered by the definition of the use case or by relying on one of the conditions under article 6(3) of the AI Act and explaining your assessment accordingly that the AI system would not pose a significant risk of harm if:

a) the AI system is intended to perform a narrow procedural task:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

b) the AI system is intended to improve the result of a previously completed human activity:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

c) the AI system is intended to detect decision-making patterns or deviations from prior decision-making patterns and is not meant to replace or influence the previously completed human assessment, without proper human review:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

d) the AI system is intended to perform a preparatory task to an assessment relevant for the purpose of the use cases listed in Annex III of the AI Act:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 38. At this stage, do you have examples of specific AI applications /use cases you believe may fall under any of the conditions from article 6(3) listed above?

Please describe the use case(s) in cause and the conditions you believe they may fall under:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 39. Based on the definition of the AI system, as explained above (and in article 3(1) and accompanying recitals), do you find it clear if your system would fall within the scope of the AI Act?

○ Yes

○ No, it is not clear/ easy to understand if it falls within the scope of the AI Act

○ Don't know / no opinion / not applicable

AI Act requirements

Question 40. Bearing in mind there will be harmonised standards for the requirements for high-risk AI (Mandates sent to CEN-CENELEC can be monitored here), would you consider helpful further guidance tailored to the financial services sector on specific AI Act requirements, in particular regarding the two high-risk AI use cases?

● Yes

○ No

○ Don't know / no opinion / not applicable

Please explain on which specific provisions or requirements and on what aspects concretely you would consider helpful further guidance tailored to the financial services sector:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Guidance is paramount to ensure compliance and harmonised mitigation risk to ensure consumer protection across all financial sectors delivering services and products.

Financial legislation requirements

Question 41. Future AI high-risk use cases would also need to comply with existing requirements from the financial legislation.

Would you consider helpful further guidance meant to clarify the supervisory expectations for these use cases?
- ○ Yes
- ○ No, the supervisory expectations are clear
- ◉ Don't know / no opinion / not applicable

Question 42. There are other use cases in relation to the use of AI by the financial services sector which are not considered of high-risk by the AI Act, but which need to comply with the existing requirements from the financial legislation.

Would you consider helpful further guidance meant to clarify the supervisory expectations for these use cases?
- ○ Yes
- ○ No, the supervisory expectations are clear
- ◉ Don't know / no opinion / not applicable

Question 43. Are you aware of any provisions from the financial *acquis* that could impede the development of AI applications (e.g. provisions that prohibit the use of risk management models which are not fully explainable or the use of fully automated services for the interaction with consumers)?
- ○ Yes
- ○ No, I am not aware of any provision(s) of this kind
- ◉ Don't know / no opinion / not applicable

Additional information

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) below. **Please make sure you do not include any personal data in the file you upload if you want to remain anonymous**.

The maximum file size is 1 MB.
You can upload several files.
Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Useful links

More on this consultation (https://finance.ec.europa.eu/regulation-and-supervision/consultations-0/targeted-consultation-artificial-intelligence-financial-sector_en)

Consultation document (https://finance.ec.europa.eu/document/download/054d25f5-0065-488a-96fb-2bb628c74e6f_en?filename=2024-ai-financial-sector-consultation-document_en.pdf)

More on digital finance (https://finance.ec.europa.eu/digital-finance_en)

More on the digital finance platform (https://digital-finance-platform.ec.europa.eu/)

Specific privacy statement (https://finance.ec.europa.eu/document/download/698ef635-9053-43c2-b3a3-709e18c1f88a_en?filename=2024-ai-financial-sector-specific-privacy-statement_en.pdf)

Contact

eu-digital-finance-platform@ec.europa.eu