INVESTOR STATEMENT IN SUPPORT OF DIGITAL RIGHTS REGULATIONS
EUROPEAN UNION ARTIFICIAL INTELLIGENCE ACT

Companies need to respect human rights throughout their operations and value chains as outlined in the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises. Investors recognize the need for rights-respecting regulation to enable responsible business conduct, and welcome the European Commission's proposal for a regulatory framework for artificial intelligence. The proposed Artificial Intelligence Act (AI Act) is intended to regulate the development and use of AI systems and aims to promote the uptake of 'trustworthy AI' whilst protecting the rights of people affected by AI systems.

While the development and use of AI has advanced and continues to have great potential to advance human rights and sustainable development, AI, and in particular the lack of transparency in AI systems, can cause and contribute to actual and potential harms such as invasion of privacy and discrimination. The lack of trustworthy AI poses significant risks to society at large and can lead to reputational, financial, and business risks and losses for AI providers and AI users. Investors want to be able to make rights-respecting investment decisions in companies that responsibly design, provide, deploy and/or use AI systems within their business operations and value-chain relationships. Investors support proposed regulations like the AI Act, which is poised to incentivize and enable responsible development and use of AI that empowers users, communities, and society, rather than dividing and discriminating against them.

We, the undersigned 149 investors representing over US$1.66 trillion (Euro €1.55 trillion) in assets under management and advisement, call on the European Parliament, the European Commission and the Council of the European Union to ensure the AI Act protects the rights of all people and does not limit or jeopardize civic freedoms and democratic processes. We urge the consideration and incorporation of the following recommendations to the AI Act:

Adopt Meaningful Human Rights Impact Assessment (HRIA) Requirements for Developing & Deploying AI Systems

Human rights impact assessments, as part of human rights due diligence processes, are a critical and widely accepted part of ensuring the responsible design of products and services, and the conduct of rights-respecting business operations and decision-making that addresses and prevents adverse impacts on relevant stakeholders and rightsholders.[1] HRIAs will enable businesses, in the case of AI providers, to develop and design safer products and services, and in the case of AI users, to prevent and mitigate harms that may occur from the deployment and use of such products and services. Incorporating human rights impact assessment in product and service life cycle will minimize exposure to potential

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[1] For example, under the EU General Data Protection Regulation, Data Protection Impact Assessments are mandated

liability, resulting in more stable and sustainable financial returns. Companies will focus on long-term value creation that benefits all relevant stakeholders, including employees, users, communities, and society. The AI Act should include the following:

● Ongoing human rights impact assessments to be undertaken by businesses, both AI providers and AI users, at all stages of the product and service cycle - from design to deployment and end-use taking into account potential contexts for such use or misuse, and resultant unintended harms - to ensure the ongoing protection of and accountability to stakeholders and rightsholders in the value chain.
● A common methodology for a human rights impact assessment process that has specific criteria relevant to AI systems, to be developed with the involvement of the proposed European Artificial Intelligence Board and the EU Fundamental Rights Agency, including consultation with external stakeholders and rightsholders.
● Meaningful engagement with rightsholders and civil society, including human rights defenders (HRDs), that is sensitive to all groups of society (whether based on gender or gender identity, ethnicity, disability, age, sexual orientation, health, religious practices, etc.) and intersectional, is critical to effectively identifying and responding to actual and potential harmful impacts.
● Human rights impact assessments must be made publicly accessible in the proposed *EU database for stand-alone high-risk AI systems*[2] within a reasonable time after being conducted and completed by the AI provider and/or AI user, whether in the public or private sector.

Expand the Publicly Viewable Database Requirements to AI Users to Ensure Meaningful Transparency

The AI Act already proposes an important transparency measure by mandating that providers of high-risk AI systems must register their systems in a publicly viewable database. However, in the original draft of the AI Act, this obligation is limited to AI providers, meaning that the public will only be able to see what high-risk systems are on the market in the EU, but not where they are being used. Following the recommendations of civil society, in order to truly create an ecosystem of trust, the obligation to register in the database should be expanded also to AI users, meaning that entities deploying high-risk AI systems should also register their use of such systems, along with the results of the human rights impact assessment discussed above.

Mandate Stakeholder & Rightsholder Participation

An accessible and effective mechanism for stakeholder engagement in the implementation and enforcement of the AI Act is critical. We support recommendations from civil society and the latest Council of EU's common position to establish an advisory group of external stakeholders and civil society organizations to the European Artificial Intelligence Board to serve as a 'bridge' between the Board and broader civil society and other stakeholders, thereby operationalizing meaningful stakeholder engagement. This advisory group would streamline multi-stakeholder engagement within the Board including allowing for quicker feedback routes to the Board regarding the application and implementation of the AI Act and could assist in the outreach to affected communities, especially marginalized groups.

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[2] See Article 60 of the draft AI Act

Prohibitions on AI Systems Posing Unacceptable Risks

The list of 'prohibited AI practices' currently provided in the proposed draft AI Act (Article 5) should be extended to cover all AI systems that pose an unacceptable risk of violating human rights including:

- A full prohibition on remote biometric identification (e.g. facial recognition cameras (FRCs)) in publicly accessible spaces to apply to all AI providers and AI users, and not just law enforcement, for both 'real-time' live uses (e.g. when FRCs are used in supermarkets or public spaces to monitor for lists of suspects) and 'post' retrospective uses, as remote biometric identification can weaponize historical footage against people (e.g. where FRCs' footage is retroactively analysed to uncover the identity of a journalist's source);[3]
- The use of 'predictive policing', i.e. AI systems used by law enforcement and criminal justice authorities to make predictions, profiles, or risk assessments for the purpose of predicting crimes;[4]
- The use of AI-based individual risk assessment and profiling systems in the migration context. This would include predictive analytics and AI polygraphs[5] for the purpose of prohibiting, curtailing or managing migration;[6]
- The use of emotion recognition systems that claim to infer people's emotions, including the use of AI polygraphs;[7]
- The use of biometric categorization systems to track, categorize, and judge people in publicly accessible spaces; or to categorize people based on protected characteristics (for example, ethnic origin, race, disability, sexual orientation) in any circumstances.[8]

Implement Safeguards for AI Systems for National Security Purposes

Rules and safeguards in the AI Act are relevant to and should apply to AI systems that are to be deployed or used for military, defence, and/or national security purposes. Blanket exemptions from the AI Act for national security must be scrutinized to ensure that national security policy cannot override the rule of law and fundamental rights.

The use of "security" technology has been known to target protestors (e.g., via biometric recognition); or have a chilling effect on the exercise of people's rights or result in the silencing of dissenting and opposition voices (e.g., through removal of "terrorist" content on the internet); or where technology designed for the security and military arena has been re-deployed for other public and civil use (e.g., use of surveillance tools to adhere to pandemic rules) without assessing adverse and harmful impact, even if unintended.

Remedy and Accountability

The proposed AI Act should ensure accountability for harms which businesses cause or contribute to and should enable and support the provision of adequate and effective remedy. Depending upon their connection to a harm, businesses should provide for, cooperate in, or use leverage to ensure

[3] https://edri.org/wp-content/uploads/2022/05/Prohibit-RBI-in-publicly-accessible-spaces-Civil-Society-Amendments-AI-Act-FINAL.pdf
[4] https://edri.org/wp-content/uploads/2022/05/Prohibit-predictive-and-profiling-AI-systems-in-law-enforcement-and-criminal-justice.pdf
[5] https://amp.theguardian.com/world/2018/nov/02/eu-border-lie-detection-system-criticised-as-pseudoscience
[6] https://www.accessnow.org/cms/assets/uploads/2022/05/Uses-of-AI-in-migration-and-border-control.pdf
[7] https://www.accessnow.org/cms/assets/uploads/2022/05/Prohibit-emotion-recognition-in-the-Artificial-Intelligence-Act.pdf
[8] https://www.accessnow.org/cms/assets/uploads/2023/01/Prohibiting-Biometric-Categorisation-updated-version-January-2023.docx.pdf

remediation of adverse impacts of AI systems and products and services in their global value chains and within their operations. The AI Act should include the following:

- Include a right to an effective remedy for those whose rights under the AI Act have been infringed as a result of the putting into service of an AI system; and
- The creation of a mechanism for individuals and public interest organizations to lodge a complaint with national supervisory authorities for a breach of the AI Act or for AI systems that undermines fundamental rights or the public interest.

Artificial intelligence is a fast-moving domain, and the AI Act must have clear mechanisms and processes to keep pace with technological development. We trust that the legislators will use this unique opportunity to improve the proposed AI Act in order to make it truly meaningful and impactful in respecting and protecting the rights of users and society.

Feb 15, 2023

INVESTOR SIGNATORIES

Aargauische Pensionskasse (APK)

Accenture Executive Pensionskasse

Adrian Dominican Sisters, Portfolio Advisory Board

Æquo, Shareholder engagement services

Anima SGR

ATISA Personalvorsorgestiftung der Tschümperlin-Unternehmungen

AVENA - Fondation BCV 2e pilier

Aviva Investors

Azzad Asset Management

Bernische Lehrerversicherungskasse

Bernische Pensionskasse BPK

Boston Common Asset Management

BVG-Stiftung der SV Group

Caisse Cantonale d'Assurance Populaire - CCAP

Caisse de pension du Comité international de la Croix-Rouge

Caisse de pension Hewlett-Packard Plus

Caisse de pensions de l'Etat de Vaud (CPEV)

Caisse de pensions du CERN

Caisse de pensions du personnel communal de Lausanne (CPCL)

Caisse de pensions ECA-RP

Caisse de pensions Féd. int. des Stés. de la Croix-Rouge et du Croissant-Rouge

Caisse de prév. des Fonctionnaires de Police & des Etablissements Pénitentiaires

Caisse de Prévoyance de l'Etat de Genève CPEG

Caisse de Prévoyance des Interprètes de Conférence (CPIC)

Caisse de prévoyance du personnel de l'Etat de Fribourg (CPPEF)

Caisse de prévoyance du personnel de l'Etat du Valais (CPVAL)

Caisse de prévoyance du personnel de la Ville de Fribourg

Caisse de retraite professionnelle de l'industrie vaudoise de la construction

Caisse intercommunale de pensions (CIP)

Caisse paritaire de prévoyance de l'industrie et de la construction (CPPIC)

CAP Prévoyance

CAPUVA Caisse de prévoyance des travailleurs et employeurs du commerce de détail

Cassa pensioni di Lugano

Christian Brothers Investment Services

CIEPP - Caisse Inter-Entreprises de Prévoyance Professionnelle

CommonSpirit Health

Congregation of St. Joseph

CorpGov.net

Corporate Responsibility office - Province of Saint Joseph of the Capuchin Order

CPCN - Caisse de pensions de la fonction publique du canton de Neuchâtel

Daughters of Charity, Province of St. Louise

EFG Asset Management

Etablissement Cantonal d'Assurance (ECA VAUD)

Etablissement cantonal d'assurance et de prévention (ECAP- Neuchâtel)

Ethical Partners Funds Management

Ethos Foundation

Evangelisch-reformierte Landeskirche des Kantons Zürich

Everence and the Praxis Mutual Funds

Fondation de la métallurgie vaudoise du bâtiment (FMVB)

Fondation de prévoyance Artes & Comoedia

Fondation de prévoyance des Paroisses et Institutions Catholiques (FPPIC)

Fondation de prévoyance du Groupe BNP PARIBAS en Suisse

Fondation de Prévoyance Edmond de Rothschild

Fondation de prévoyance professionnelle en faveur de AROMED

Fondation de prévoyance Romande Energie

Fondation Interprofessionnelle Sanitaire de Prévoyance (FISP)

Fondation Leenaards

Fondation Patrimonia

Fondazione Ticinese per il secondo pilastro

Fondo di Previdenza per il Personale dell'Ente Ospedaliero Cantonale

Fondo Pensione Cometa

Fonds de Prévoyance de CA Indosuez (Suisse) SA

Fonds interprofessionnel de prévoyance (FIP)

Friends Fiduciary

Future Super Group

Gebäudeversicherung Luzern

Gebäudeversicherung St. Gallen

GEMINI Sammelstiftung

Harrington Investments, Inc.

Heartland Initiative

Istituto di previdenza del Cantone Ticino

Lady Lawyer Foundation

Lady Lawyer Village Committee

Liechtensteinische AHV-IV-FAK

Luzerner Pensionskasse

Maryknoll Sisters

Mercy Investment Services, Inc.

Miller/Howard Investments, Inc.

NEI Investments

Nest Sammelstiftung

Northwest Coalition for Responsible Investment

ÖKK Berufliche Vorsorge

Pensionskasse AR

Pensionskasse Bank CIC (Schweiz)

Pensionskasse Basel-Stadt

Pensionskasse Bühler AG Uzwil

Pensionskasse Caritas

Pensionskasse der Basler Kantonalbank

Pensionskasse der Diözese St.Gallen

Pensionskasse der Schweizer Paraplegiker-Gruppe Nottwil

Pensionskasse der Schweizerischen Nationalbank

Pensionskasse der Stadt Biel

Pensionskasse der Stadt Frauenfeld

Pensionskasse der Stadt Weinfelden

Pensionskasse der Stadt Winterthur

Pensionskasse der Stadt Zug

Pensionskasse der Technischen Verbände SIA STV FSAI USIC

Pensionskasse des Kantons Nidwalden

Pensionskasse Graubünden

Pensionskasse Pro Infirmis

Pensionskasse Römisch-katholische Landeskirche des Kantons Luzern

Pensionskasse Schaffhausen

Pensionskasse SRG SSR

Pensionskasse Stadt Luzern

Pensionskasse Stadt St. Gallen

Pensionskasse Unia

Personalvorsorgekasse der Stadt Bern

Personalvorsorgestiftung der Accenture Schweiz

Personalvorsorgestiftung der Ringier Gruppe

Personalvorsorgestiftung der Würth-Gruppe Schweiz

previva, fonds de prévoyance des professionnels du travail social

Prévoyance Santé Valais (PRESV)

Profelia Fondation de prévoyance

Prosperita Stiftung für die berufliche Vorsorge

Raiffeisen Pensionskasse Genossenschaft

Raiffeisen Schweiz

Rathbone Greenbank Investments

Regroupement pour le Responsabilité Sociale des Entreprises (RRSE)

Rentes genevoises - Assurance pour la vieillesse

Riverwater Partners

Robeco

RP - Fonds institutionnel

SDG Invest

Secunda Sammelstiftung

Sisters of Charity of New York

Sisters of Mary Reparatrix

Sisters of the Presentation of the BVM of Aberdeen, South Dakota

Socially Responsible Investment Coalition

Spida Personalvorsorgestiftung

St. Galler Pensionskasse

Stiftung Abendrot

Stiftung Auffangeinrichtung BVG

Stiftung Personalvorsorge Liechtenstein

Storebrand Asset Management

SVA Zürich

Swissbroke Vorsorgestiftung

Sycomore AM

Symova Sammelstiftung BVG

Terre des hommes Schweiz

The Episcopal Church (DFMS)

Thematics Asset Management

Trillium Asset Management

Unfallversicherungskasse des Basler Staatspersonals

Université de Genève (UNIGE)

Vancity Investment Management

Verein Barmherzige Brüder von Maria-Hilf (Schweiz)

Vorsorge SERTO

Vorsorgestiftung der Bourquin SA

Zevin Asset Management