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

---

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.

---

\(^2\) 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 polygraphs⁵ for the purpose of prohibiting, curtailing or managing migration;
- The use of emotion recognition systems that claim to infer people’s emotions, including the use of AI polygraphs;⁶
- 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.⁷

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

⁵ https://amp.theguardian.com/world/2018/nov/02/eu-border-lie-detection-system-criticised-as-pseudoscience
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
Personalvorsorgegessituation der Accenture Schweiz
Personalvorsorgegessituation der Ringier Gruppe
Personalvorsorgegessituation 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 Personalvorsorgegestiftung
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