AI & Partners

AI & Partners' Pathways for EU AI Act Readiness

Preparing your business for the changing realities of AI systems in the EU

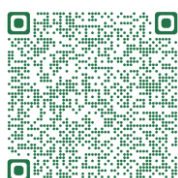# AI & Partners' Pathways for EU AI Act Readiness

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Introduction

Get ready for AI regulation.

If your firm carries out business in the European Union, then you may be aware that your life is about to become a lot more complicated starting in January 2024. That's when the two-year transition period for the new EU Artificial Intelligence Act (the "EU AI Act") is scheduled to take effect. AI & Partners is positioned to help you develop strategies to address the challenges of the EU AI Act. Our Pathways for EU AI Act readiness are phased programme engagement points and cognitive capabilities which can accelerate your journey.

This new, stronger regulation will aim to harmonise artificial intelligence ("AI") across all 27 European Union ("EU") Member States. In some cases, it will merely strengthen or enhance specific product safety and fundamental rights laws which are already in place under many related local laws, whilst other obligations will be introduced for the first time.

The EU has more than 700 million residents and 26 million active businesses which will be impacted directly by the EU AI Act. In addition, much of the regulation is expected to apply to the AI systems of businesses from the EEA (but non-EU) member states — Norway, Iceland and Liechtenstein — as these countries will likely standardise on many of the same rules included in the EU AI Act, once it is enacted.

Adding to the complexity is the fact that the EU AI Act is explicitly stated to be extraterritorial in certain broad circumstances. This means that organisations without a physical market presence in the EU will still be required to comply with the EU AI Act if the following non-exhaustive conditions apply:

- the firm places on the market or puts into service AI systems in the EU, irrespective of whether those providers are established within the EU or in a third country;
- users of AI systems are based within the EU.

In addition, if you work with suppliers or partners that operate in the EU, they will most likely expect you to comply with the EU AI Act in order to limit their own risk. Simply put, EU AI Act compliance will soon be considered a requirement to conduct business in Europe.

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AI & Partners views the EU AI Act as a competitive business opportunity, as it may inspire enterprises to adopt unified AI governance as part of their core strategy. Unified governance can provide the foundation for success in the digital age. It can be the framework to transform a business by providing insights about what AI systems the business has, where the AI systems are used, how the AI systems can be used to maximise value and minimise risk, and how to handle the AI systems in a manner that can build trust with individuals.

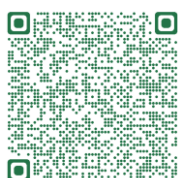
AI & Partners' EU AI Act readiness journey

AI & Partners has established and is executing a global programme to prepare for the EU AI Act, both for our internal processes and for our commercial offerings. AI & Partners recognises that our customers will look to AI & Partners' offerings and technical assistance to help prepare and assist EU AI Act readiness within their own organisations, and AI & Partners is well-positioned to help meet this critical need.

As part of our own EU AI Act programme, we're enhancing our ongoing commitment to Responsible AI and AI Governance, to help ensure that AI system use supports individuals' fundamental rights and safety & security.

What are the potential drawbacks of failing to comply with the EU AI Act?

The financial penalties for failing to comply with the EU AI Act are clearly defined: for each instance of non-compliance, your firm could face a fine of up to 40 million euros or 7 per cent of worldwide annual turnover (revenue), whichever is higher, for a breach of Article 5. Of course, this may also result in damage to your brand reputation in the eyes of your customers and employees. This might even lead you to lose European market share to competitors that have done a better job of preparing themselves. Some AI & Partners clients are already positioning their EU AI Act readiness as a competitive advantage.

AI & Partners' Pathways for EU AI Act Readiness

By proactively implementing safety, security and trustworthiness measures, these firms are poised to potentially improve their reputation. This can provide a valuable selling point to help bring in new clients.

The regulation is scheduled to be published in the Official Journal of the European Union in January 2024 with a two-year transitional period being applied. Firms should not assume that they should not do anything during the grace period after it applies from January 2024.

Indeed, European legislators have indicated that non-compliant organisations risk being fined immediately. However, they have also stated they will take a common-sense, pragmatic approach to regulatory principles, expecting organisations to account for what they have done to prepare.

In addition, regulators have powers under the EU AI Act to potentially disrupt ongoing business if they suspect your organisation might not be conforming with the EU AI Act. Such an investigation might lead to findings that show you are even further away from being compliant than the regulator — or even you yourself — originally thought.

What's involved with EU AI Act readiness?

The EU AI Act is a much more stringent regulation than many in the United States are accustomed to. Many organisations have long looked at AI solely as a market resource. The EU AI Act challenges them to start looking at AI system use as a fundamental human rights issue instead. It includes safety, security and trustworthiness, so any readiness strategy you put into place must address all three of these issues appropriately in order to be effective.

If you consider the pervasive themes in the EU AI Act, it becomes clear that a EU AI Act readiness strategy should span people, processes and technology. Many firms will be able to preserve some of the processes they already have, whilst building on them to fill in any gaps that might exist.

When appropriately implemented, a holistic governance strategy can help you comply with the EU AI Act, as well as put you in a stronger position to support your other data obligations that might apply to your business.
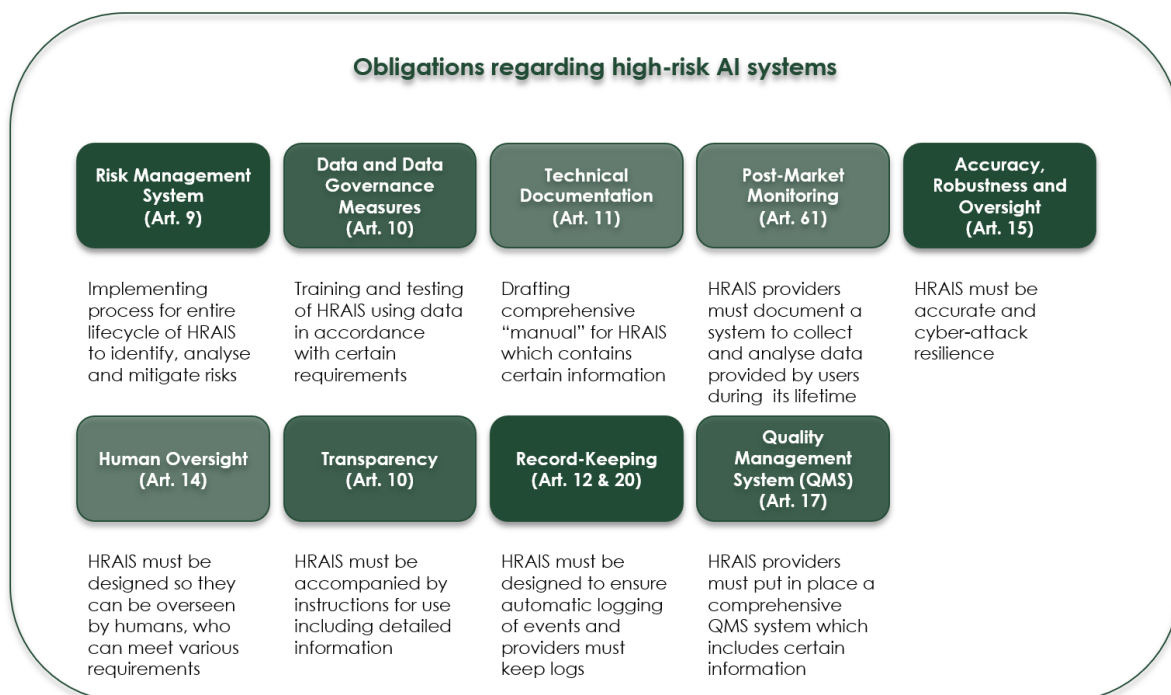
AI & Partners' Pathways for EU AI Act Readiness

## Five main concepts of EU AI Act readiness

From our perspective, there are nine main concepts firms should be aware of when it comes to understanding their EU AI Act obligations:

Figure 1: Nine main concepts for understanding EU AI Act compliance

Obligations regarding high-risk AI systems

Risk Management System (Art. 9)	Data and Data Governance Measures (Art. 10)	Technical Documentation (Art. 11)	Post-Market Monitoring (Art. 61)	Accuracy, Robustness and Oversight (Art. 15)
Implementing process for entire lifecycle of HRAIS to identify, analyse and mitigate risks	Training and testing of HRAIS using data in accordance with certain requirements	Drafting comprehensive "manual" for HRAIS which contains certain information	HRAIS providers must document a system to collect and analyse data provided by users during its lifetime	HRAIS must be accurate and cyber-attack resilience

Human Oversight (Art. 14)	Transparency (Art. 10)	Record-Keeping (Art. 12 & 20)	Quality Management System (QMS) (Art. 17)
HRAIS must be designed so they can be overseen by humans, who can meet various requirements	HRAIS must be accompanied by instructions for use including detailed information	HRAIS must be designed to ensure automatic logging of events and providers must keep logs	HRAIS providers must put in place a comprehensive QMS system which includes certain information

New set of rules for HRAIS

Requirement for an ex-ante conformity assessment: Providers of high-risk AI systems ("HRAIS") would be required to register their systems in an EU-wide database managed by the Commission before placing them on the market or putting them into service. Any AI products and services governed by existing product safety legislation will fall under the existing third-party conformity frameworks that already apply (e.g. for medical devices).
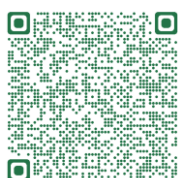
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Providers of AI systems not currently governed by EU legislation would have to conduct their own conformity assessment (self-assessment) showing that they comply with the new requirements and can use CE marking. Only high-risk AI systems used for biometric identification would require a conformity assessment by a 'notified body'.

Other requirements: Such HRAIS would have to comply with a range of requirements particularly on risk management, testing, technical robustness, data training and data governance, transparency, human oversight, and cybersecurity (Articles 8 to 15). In this regard, providers, importers, distributors and users of high-risk AI systems would have to fulfil a range of obligations. Providers from outside the EU will require an authorised representative in the EU to (inter alia), ensure the conformity assessment, establish a post-market monitoring system and take corrective action as needed. AI systems that conform to the new harmonised EU standards, currently under development, would benefit from a presumption of conformity with the draft AI act requirements.

The AI & Partners EU AI Act Framework

AI & Partners has created a EU AI Act Framework that highlights five phases to help achieve readiness, as shown in Figure 2: **Assess**, **Design**, **Transform**, **Operate** and **Conform**. The goal of the framework is to translate EU AI Act obligations into actions and outcomes that help clients effectively manage both safety, security and trustworthiness, to help reduce risk and avoid incidents.

Pathways for pursuing EU AI Act readiness

Many firms are aware they need to take action now in order to prepare for the EU AI Act but are not sure of the best way to get started. The truth is there is no one right answer: where you start depends a lot on where you are now. That being said, AI & Partners has examined our existing client engagements as well as our own AI & Partners readiness initiatives, and identified several common Pathways within the EU AI Act framework that are the highest priority for most firms facing the immediate challenges of EU AI Act readiness. In addition, we have developed various other Pathways that companies might want to address in the future. Figure 3 illustrates the major pathways within the AI & Partners EU AI Act framework.
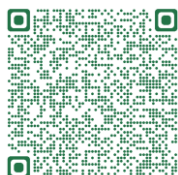
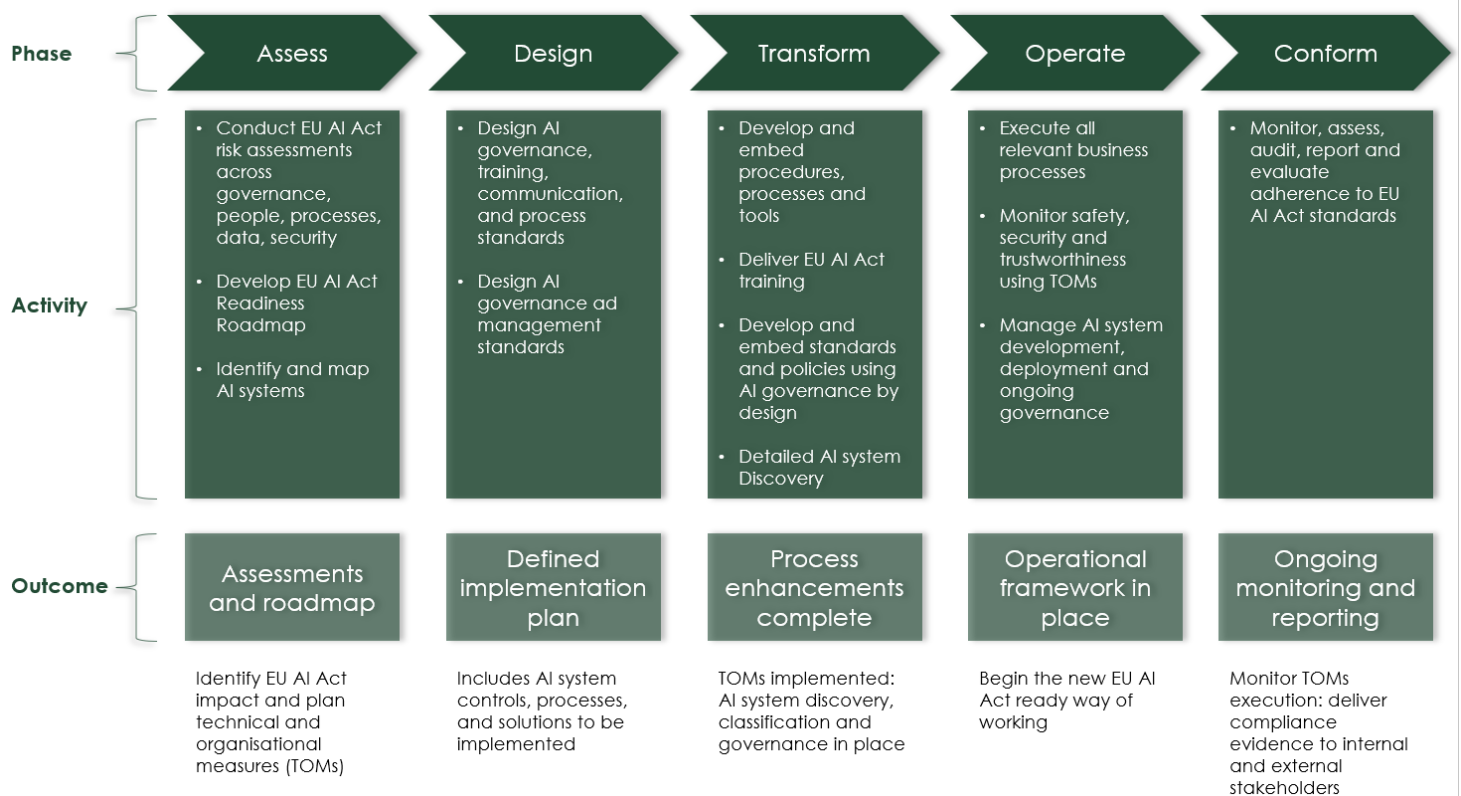# AI & Partners' Pathways for EU AI Act Readiness

EU AI Act pathways for immediate attention

Assess: EU AI Act readiness assessment

If you haven't already done so, your first step should be to understand your EU AI Act obligations and state of readiness, as well as the risks of failing to act now.

A key outcome of this EU AI Act readiness assessment should be a roadmap that helps you manage and mitigate the sources of risk that you identify. This would include identifying existing initiatives the company has that could be built upon, as well as EU AI Act business control gaps that may need to be filled in. Once you have a roadmap, you can assign sponsors to take the lead on those tasks going forward.

Figure 2: The AI & Partners EU AI Act Framework

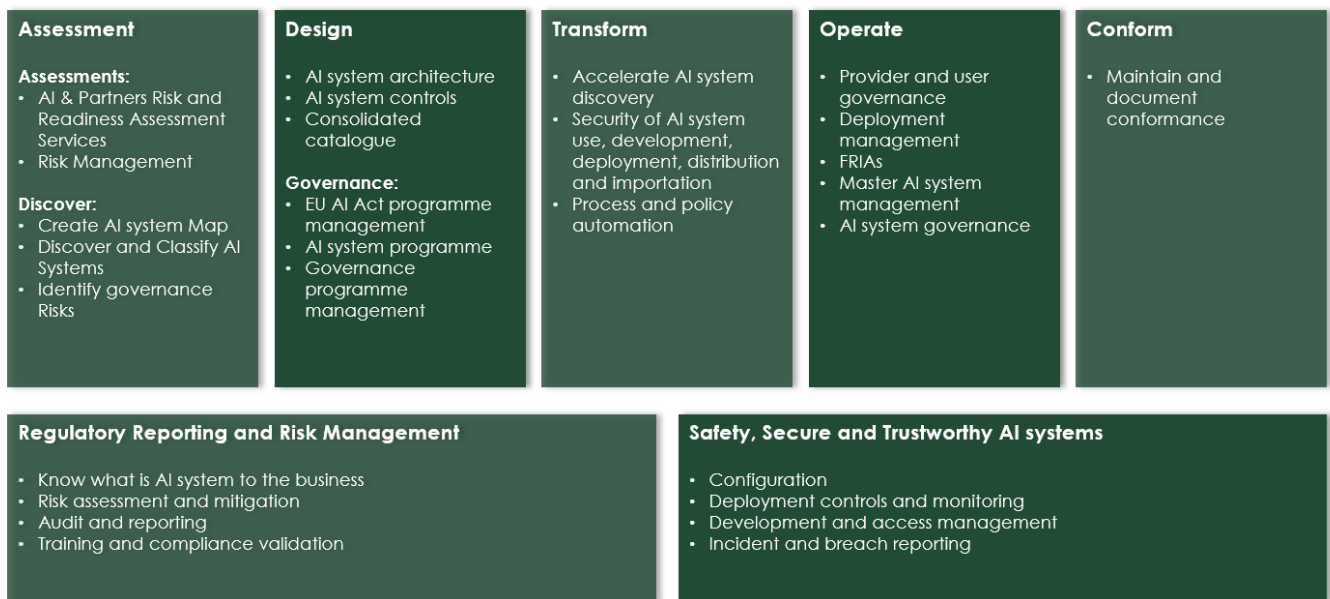| Phase	Assess	Design	Transform	Operate	Conform
Activity	• Conduct EU AI Act risk assessments across governance, people, processes, data, security • Develop EU AI Act Readiness Roadmap • Identify and map AI systems	• Design AI governance, training, communication, and process standards • Design AI governance ad management standards	• Develop and embed procedures, processes and tools • Deliver EU AI Act training • Develop and embed standards and policies using AI governance by design • Detailed AI system Discovery	• Execute all relevant business processes • Monitor safety, security and trustworthiness using TOMs • Manage AI system development, deployment and ongoing governance	• Monitor, assess, audit, report and evaluate adherence to EU AI Act standards
Outcome	Assessments and roadmap	Defined implementation plan	Process enhancements complete	Operational framework in place	Ongoing monitoring and reporting
	Identify EU AI Act impact and plan technical and organisational measures (TOMs)	Includes AI system controls, processes, and solutions to be implemented	TOMs implemented: AI system discovery, classification and governance in place	Begin the new EU AI Act ready way of working	Monitor TOMs execution: deliver compliance evidence to internal and external stakeholders

AI & Partners' Pathways for EU AI Act Readiness

AI & Partners has a long-standing proven EU AI Act consulting service practice that specialises in these cross-border AI compliance challenges and risk impact assessments. We developed our first regulatory technology ("RegTech") tool in 2021.

This practice has been extended with the acquisition of multiple strategic partners, who offer our clients a combination of AI governance expertise and regulatory risk management experience to guide them through the full lifecycle of building, managing and sustaining EU AI Act governance programmes.

AI & Partners' professional network blends experience as former regulators, in-house compliance managers, and global AI consultants to provide unique perspective and expertise for clients evaluating their EU AI Act readiness, conducting AI system-mapping exercises, and developing compliance strategies.

Figure 3: EU AI Act Framework Pathway

Assessment

Assessments:
- AI & Partners Risk and Readiness Assessment Services
- Risk Management

Discover:
- Create AI system Map
- Discover and Classify AI Systems
- Identify governance Risks

Design

- AI system architecture
- AI system controls
- Consolidated catalogue

Governance:
- EU AI Act programme management
- AI system programme
- Governance programme management

Transform

- Accelerate AI system discovery
- Security of AI system use, development, deployment, distribution and importation
- Process and policy automation

Operate

- Provider and user governance
- Deployment management
- FRIAs
- Master AI system management
- AI system governance

Conform

- Maintain and document conformance

Regulatory Reporting and Risk Management

- Know what is AI system to the business
- Risk assessment and mitigation
- Audit and reporting
- Training and compliance validation

Safety, Secure and Trustworthy AI systems

- Configuration
- Deployment controls and monitoring
- Development and access management
- Incident and breach reporting

AI & Partners' Pathways for EU AI Act Readiness

Assess: Risk Management

A regulatory risk management dashboard and dynamic reporting function are both critical programme features for EU AI Act readiness. They can help to rapidly address any regulatory request or enquiry. AI & Partner' solution for risk and response dashboarding and reporting can help you implement these capabilities. In addition, the AI & Partners can help you track and mitigate AI system risks and classify your organisation's critical EU AI Act assets, including AI systems and other information.

Assess: AI System Mapping and Discovery

When AI & Partners works with a EU AI Act readiness client, one of the first things we do is find out if the client has a completed AI system map. If such a AI system map does not exist, creating one would be a top priority. An AI system map is key for many reasons, including legal, compliance, security, IT and HR reasons.

It is also very important from a EU AI Act perspective, because of the high-risk AI system ("HRAIS") obligations. Your firm will need to comply with those requests in a rapid time period, and understanding your AI systems characteristics will enable you to meet specific deadlines.

AI system discovery, which can be completed during or after your EU AI Act readiness assessment, allows you to deepen your knowledge about how your organisation uses AI systems (processes and purposes); what AI systems you use (types and characteristics); and who uses AI systems (sources).

Most firms have a pretty good handle on where their AI systems are, but not necessarily what data trains their AI systems. Even in instances when you know you have AI systems that needs to be risk classified, you may not know as much as you should about the risk levels of those AI systems.

For EU AI Act readiness, it is very helpful for you to clear out any old data, whilst moving data you do need to keep into the scope of a robust information governance and security programme, so that it can be understood, protected and accounted for in the future.

AI & Partners' Pathways for EU AI Act Readiness

AI & Partners offers its clients an effective QuickStart EU AI Act readiness engagement that draws from the power of AI system discovery and catalogue accelerator tools, covering both a myriad of AI systems. It is designed to generate a clearly defined plan to help you move your EU AI Act readiness efforts forward within four to six weeks of analysis.

As part of your EU AI Act readiness engagement, your organisation will be exposed to routines that may be put into place as standardised and repeatable processes to help identify AI systems across your organisation. In addition, AI & Partners will work with you to help minimise risks with AI systems by identifying AI systems that you use. Identifying the AI systems—knowing what and why—can help you minimise your EU AI Act risks and comply with the EU AI Act's provisions.

You can get started with discovering the AI systems your organisation handles in as little as two months from implementation. The additional AI & Partners Accelerators for finding and classifying AI systems rapidly expand the diversity, volume and variety of AI systems you can discover, even if you haven't formally defined AI systems to the business.

Design: Consolidated Governance Catalogue

A complete and accurate AI system inventory or catalogue (Figure 4) can create the foundation for a unified AI governance strategy for the EU AI Act. It helps answer questions about where AI systems are located, how they are being used, and who is using them.

As such, its benefits are not limited to EU AI Act readiness: it can help you comply with other rules and regulations that might affect you, now or in the future. It is also the first step toward driving more informed business outcomes by making valuable data available to business users throughout the organisation.

Transform: AI System discovery

Continuing to build on the foundation established during the EU AI Act readiness assessment, AI system discovery is where you will consolidate everything you have learned about your AI systems, including the locations of that AI systems and their users.
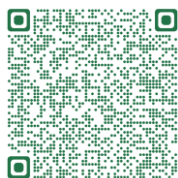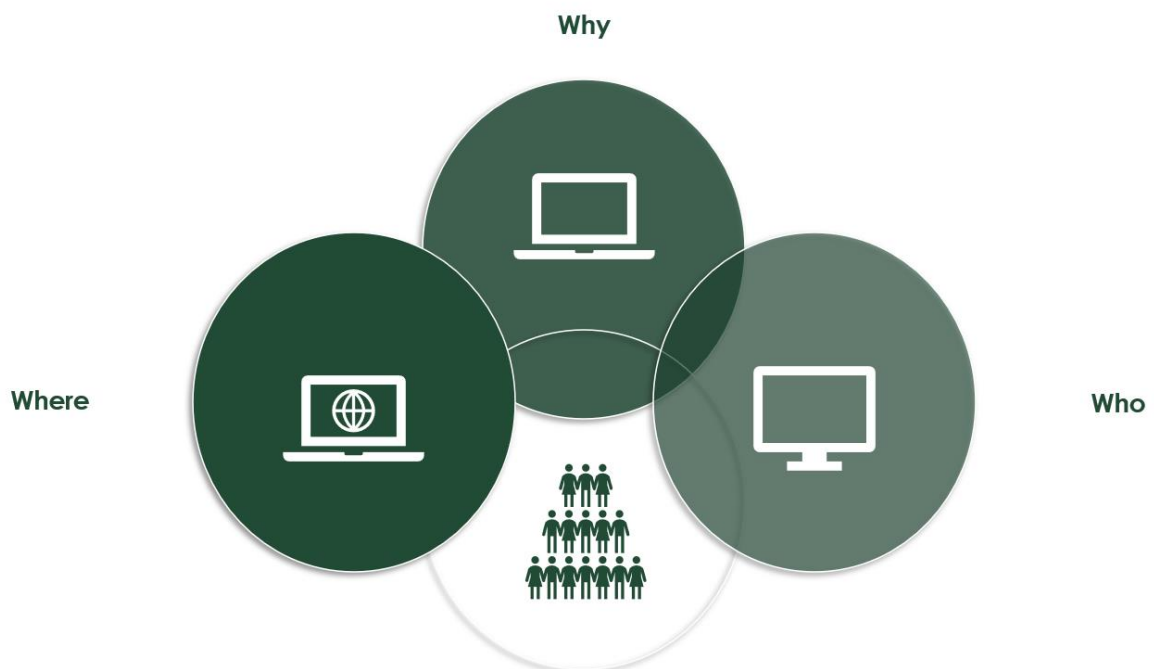
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At AI & Partners, we believe the best way to create a complete and up-to-date AI system inventory is to combine a bottom-up approach (using AI system inventory tools) with a top-down mapping approach (conducting interviews with business and technical users to get a first-hand look at what AI systems reside where, and what business value users draw from that AI system). This process should be iterated over time, to keep up with changes as they occur.

AI & Partners AI system discovery accelerator tools can help you accelerate and enhance the AI system mapping process, across on-premises and cloud environments.

By quickly analysing and classifying the contents of your AI system stores, these tools — working in concert with a central unified information governance catalogue and risk response framework — can help you create a detailed catalogue of AI system stores, locations, purposes, owners, data subject types and more.

Figure 4: Consolidated Governance catalogue - Key capabilities

AI & Partners' Pathways for EU AI Act Readiness

Conform: Documenting Conformance

Another aspect of AI system deployment is documenting your conformance. AI & Partners' solution capabilities can help in that regard by providing AI system and file activity monitoring to create audit trails of AI system access with detailed reporting.

Operate: Unified Governance

Unified Governance provides supporting AI system management processes, which are essentially good housekeeping for AI systems. It can be leveraged along with other practices to reduce risk and improve economics across all AI systems.

European AI Scanner for EU AI Act Readiness

With European AI Scanner being the first solution to meet the AI system classification requirements, you have a one-stop shop for your identification, classification, assessment, AI governance needs. European AI Scanner can help your EU AI Act programme in three ways:

1. European AI Scanner is built for heavily regulated industries and able to meet strict requirements

With European AI Scanner, you can be assured that we are adhering to our regulatory and compliance commitments to enable EU AI Act readiness. AI & Partners has signed up more IaaS and PaaS services to the relevant standards and codes of conduct than any other company: so far. AI & Partners' solution is hosted on a platform with an ISO 27001 certification.

2. European AI Scanner is AI system first, aiming to give you complete control, visibility and transparency about where your AI systems reside

Your obligations as provider under the EU AI Act can be simplified using European AI Scanner can help you comply with EU AI Act AI governance requirements.

3. European AI Scanner includes a comprehensive data security platform that can help you meet your EU AI Act data privacy and security requirements

European AI Scanner is agile and scalable, with built-in data security and privacy services and solutions that can be consumed on premises or as SaaS offerings. Our comprehensive governance, risk and compliance ("GRC") platform helps safeguard sensitive data wherever it resides and provides a full range of data protection capabilities.

Understanding your EU AI Act obligations

As this paper aims to convey, there is nothing simple about EU AI Act readiness. It's a process that can be complex, challenging and costly, but it is also necessary. In addition to the simple fact that it helps you avoid serious penalties, EU AI Act readiness can now be considered a cost of doing business when it comes to successfully interacting within the European Union.
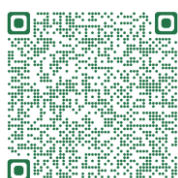
In addition, we believe the implementation of the EU AI Act may be the first step toward opening up a single digital market across Europe. Taking action now can put your firm in the best position to succeed in that new reality.

Complying with the EU AI Act is also a great way to gain the confidence of your customers and employees, increase visibility and understanding around your business, make quality data available to every business user, become more efficient, and potentially identify new and better revenue-generating opportunities.

Now that we have shared our perspective towards EU AI Act readiness, leverage our prescriptive Pathways to help you get started on your journey toward compliance.

For more information

To learn more about the AI & Partners perspective and capabilities for EU AI Act readiness, visit us today at https://www.ai-and-partners.com/, or contact your AI & Partners representative.