

# Unified Front: Joint Efforts in AI Compliance and Market Surveillance

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16 December 2024

## 8. Market Surveillance: Ensuring AI systems' compliance.

### 8.1 Market Surveillance Authority Powers

*Overview of powers and responsibilities.*

### 8.2 Joint Activities and Investigations

*Promoting compliance through joint efforts.*

### 8.3 Access to Documentation and Data

*Granting authorities access to essential information.*

### 8.4 Source Code Access

*Conditions under which source code access is granted.*

## Introduction

The EU AI Act establishes a robust framework for regulating artificial intelligence (AI) systems, with market surveillance playing a pivotal role in its enforcement. Market surveillance involves collaborative efforts between authorities and the Commission to ensure AI systems' compliance, safety, and reliability across the European Union.



Joint activities and investigations conducted by market surveillance authorities and the Commission are paramount in this endeavor. These cooperative initiatives entail monitoring AI systems in the market, conducting compliance assessments, and responding to reports of non-compliance. Through these joint efforts, regulatory bodies can effectively address emerging challenges and risks associated with AI technologies while fostering innovation and safeguarding user interests.

In essence, market surveillance serves as a cornerstone of AI regulation within the EU, facilitating collaboration and coordination among regulatory bodies to uphold standards, protect consumers, and instill trust in AI technologies. This introduction sets the stage for exploring the powers, responsibilities, and challenges faced by market surveillance authorities in ensuring compliance and promoting the safe and responsible use of AI systems.

## The EU AI Act and Market Surveillance

The EU AI Act represents a pivotal step in regulating artificial intelligence (AI) technologies to ensure safety, compliance, and innovation within the European Union. At its core, the Act aims to establish clear guidelines and standards for AI systems, addressing concerns surrounding their ethical use and potential risks.

Central to the Act's enforcement are market surveillance authorities, tasked with overseeing AI systems' compliance with regulatory standards across the EU. These authorities play a crucial role in monitoring the market, conducting compliance assessments, and responding to reports of non-compliance. By ensuring AI systems adhere to safety and performance criteria, market surveillance authorities contribute to fostering a secure and trustworthy AI ecosystem within the EU.

In essence, the EU AI Act underscores the importance of market surveillance in upholding regulatory compliance and safeguarding user interests in the rapidly evolving landscape of AI technologies. Through their vigilance and enforcement efforts, market surveillance authorities serve as guardians of compliance, promoting the responsible and ethical use of AI systems while fostering innovation and protecting consumers.

## Joint Activities and Investigations Explained

Under the EU AI Act, market surveillance authorities and the Commission are empowered to engage in joint activities and investigations aimed at ensuring compliance with regulatory standards for AI systems. These provisions enable collaborative efforts between regulatory bodies to effectively monitor the market, identify potential non-compliance issues, and raise awareness about the Act's requirements, particularly regarding high-risk AI systems.

Joint activities may include conducting audits, inspections, and assessments of AI systems to evaluate their compliance with safety and performance criteria outlined in the Act. Through these initiatives, market surveillance authorities and the Commission can gather valuable insights into the implementation of AI technologies across various sectors and identify areas for improvement or intervention.

Furthermore, joint investigations allow for a coordinated approach in addressing reported cases of non-compliance or potential risks associated with AI systems. By pooling resources and expertise, regulatory bodies can conduct thorough inquiries, gather evidence, and take appropriate enforcement actions to rectify non-compliant practices and mitigate risks to consumers and stakeholders.



## The Role of the AI Office in Coordination

The AI Office, as delineated in the EU AI Act, plays a pivotal role in facilitating coordination among regulatory bodies for joint investigations. This office serves as a central hub for providing support and guidance to market surveillance authorities and the Commission in their collaborative efforts to ensure AI system compliance. By leveraging its expertise and resources, the AI Office enhances the efficiency and effectiveness of joint activities, including investigations into potential non-compliance issues. It fosters coordination among member states, streamlining communication channels and sharing best practices to promote a harmonized approach to AI regulation.

Furthermore, the AI Office acts as a repository of knowledge and information, offering valuable insights into emerging trends, risks, and regulatory developments in the AI landscape. This support enables regulatory bodies to stay abreast of evolving challenges and devise proactive strategies to address them effectively.

## Challenges in Joint Market Surveillance

Market surveillance authorities encounter several challenges when conducting joint activities and investigations under the EU AI Act. Coordinating across different jurisdictions poses a significant hurdle due to varying legal frameworks and enforcement practices among member states. Additionally, the complexities of AI technologies, such as understanding algorithms and assessing their compliance, require specialized knowledge and resources.

However, the EU AI Act addresses these challenges by establishing mechanisms for cooperation and information sharing among regulatory bodies. It mandates the AI Office to provide coordination support, streamlining communication and facilitating collaboration across member states. Furthermore, the Act promotes the development of common methodologies and guidelines for assessing AI compliance, ensuring a harmonized approach across jurisdictions.

Through these provisions, the EU AI Act fosters cooperation and coordination among market surveillance authorities, enabling them to overcome challenges and effectively regulate AI technologies. By working together, regulatory bodies can address emerging risks and ensure the safety and reliability of AI systems within the European Union.

## Best Practices for Successful Joint Efforts

To ensure the success of joint activities and investigations, market surveillance authorities and the Commission should adopt several best practices. Firstly, establishing clear communication channels and protocols for information sharing is crucial. Regular meetings and updates facilitate transparency and coordination among agencies.

Secondly, leveraging expertise across agencies and member states enhances the depth of investigations and ensures comprehensive coverage of AI systems. Collaborating on training programs and knowledge-sharing initiatives can further bolster capabilities in assessing AI compliance.

Moreover, defining roles and responsibilities upfront helps streamline decision-making processes and prevents overlaps or gaps in enforcement efforts. Each agency should contribute its unique strengths and resources to maximize efficiency and effectiveness.

Lastly, fostering a culture of trust and collaboration is essential for long-term success. Encouraging open dialogue and respecting diverse perspectives contribute to a collaborative environment where stakeholders feel empowered to share insights and raise concerns.



By adhering to these best practices, market surveillance authorities and the Commission can enhance the effectiveness of joint efforts in regulating AI technologies, ensuring compliance, and safeguarding the interests of consumers and stakeholders across the European Union.

## From Strategy to Responsibility: Implications of the EU AI Act for Corporate Boards

To ensure compliance with the EU AI Act, corporate boards must institute sophisticated governance frameworks for the oversight of AI systems. These frameworks should classify AI applications based on their risk profiles (e.g., high-risk systems) in alignment with the Act's mandates. Boards must oversee the implementation of rigorous risk management protocols, ensuring adherence to standards of transparency, accountability, and cybersecurity. This necessitates the establishment of comprehensive documentation and periodic audits to verify compliance. Advanced training for board members and executives on the Act's intricacies is essential, emphasizing data quality, algorithmic fairness, and bias mitigation. Boards should engage multidisciplinary teams of legal, technical, and ethical experts to conduct compliance assessments. Moreover, directors must adopt a dynamic monitoring approach, enabling timely adaptation to evolving legislative frameworks. Such measures must be embedded into the organization's broader governance architecture to institutionalize compliance.

To address the market surveillance requirements stipulated by the EU AI Act, boards must cultivate a proactive and transparent approach to post-market accountability. This includes instituting mechanisms for continuous monitoring and iterative improvement of AI systems based on empirical, real-world performance data. Boards should mandate robust internal documentation protocols, ensuring traceability of AI decision-making processes, dataset provenance, and risk management workflows. Collaboration with national market surveillance authorities is imperative, requiring transparent engagement and swift resolution of non-compliance findings. Furthermore, boards must enforce feedback loops and incident reporting structures to facilitate the identification and mitigation of emergent risks. Advanced preparedness for external audits is paramount, necessitating close collaboration between AI developers, compliance officers, and legal advisors. By fostering a culture of continuous vigilance, boards can demonstrate readiness to meet the dynamic demands of market surveillance and avoid reputational or regulatory penalties.

While conformity with the EU AI Act and market surveillance mechanisms represents a foundational baseline, it is insufficient to ensure alignment with ethical principles. Ethical AI necessitates a paradigm that transcends regulatory mandates, emphasizing equity, inclusivity, and societal impact. Legal compliance typically addresses minimal thresholds, whereas an ethical framework requires proactive engagement with complex issues such as algorithmic bias, fairness, and the disproportionate impact on marginalized groups. Boards must champion an ethical architecture that embeds transparency, human oversight, and participatory stakeholder governance into the AI lifecycle. This involves creating institutional mechanisms, such as ethics advisory boards and periodic ethical audits, to rigorously interrogate the societal implications of AI systems. Only by institutionalizing ethical considerations as a core element of organizational culture can boards ensure that their AI initiatives are not merely legally compliant but also aligned with broader humanistic and societal values.



## The Need for Orchestrating AI Compliance, Market Surveillance, and Ethics

In response to the EU AI Act, corporate boards must engage in the meticulous orchestration of compliance, market surveillance, and ethical frameworks to construct a robust and responsible AI governance paradigm. This task demands an integrative approach, where regulatory compliance serves as a foundational element, market surveillance ensures adaptive oversight, and ethical frameworks provide normative guidance. Boards must facilitate interdisciplinary collaboration among legal, compliance, technology, cybersecurity and ethics experts to develop a cohesive AI governance ecosystem. Oversight mechanisms should not only align with statutory obligations but also internalize ethical imperatives such as equity, accountability, and transparency. Periodic strategic reviews by the board, informed by diverse expert perspectives, are crucial to harmonizing these domains. By adopting a proactive and iterative AI governance model, boards can mitigate regulatory and reputational risks while fostering societal digital trust. This orchestration is pivotal in achieving a sustainable balance between legal and regulatory adherence, ethical innovation, and public accountability.

### Conclusion

Joint activities and investigations under the EU AI Act are paramount for ensuring AI systems' compliance across the European Union. These collaborative efforts, facilitated by market surveillance authorities and the Commission, enable effective monitoring, assessment, and enforcement of regulatory standards.

The AI Office plays a central role in coordinating these initiatives, ensuring a harmonized approach to AI regulation across member states. By fostering collaboration and information sharing, the AI Office enhances the efficiency and effectiveness of joint efforts, ultimately promoting a safe and trustworthy AI ecosystem within the EU.

Collectively, these activities contribute to upholding consumer trust, protecting fundamental rights, and fostering innovation in AI development. By enforcing compliance with regulatory standards, market surveillance authorities play a crucial role in safeguarding the interests of consumers and stakeholders, thereby ensuring the responsible and ethical use of AI technologies across the European Union.



## Glossary

**Act or EU AI Act:** European Union Artificial Intelligence Act

**AI:** Artificial Intelligence

**Board:** European Union Artificial Intelligence Board

**EU:** European Union

**SME:** Small and Medium-Sized Enterprise

## How can we help?



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