# What is Know Your AI (KYAI)?

Know Your AI ("KYAI") is the process firms use to verify their artificial intelligence ("AI") systems, their risk levels, and inform compliance risk assessments. KYAI is a foundation of European Union ("EU") AI Act (the "EU AI Act") compliance in jurisdictions worldwide. Given its regulatory importance, firms should understand how to implement KYAI effectively.

With adoption of AI systems on the rise, KYAI policies have evolved to bolster risk management and mitigate the risk of harms to individuals' safety, health, fundamental rights, and democracy.. Effective KYAI protects firms providers from costly compliance penalties, criminal liability, and reputational damage and safeguards individuals who may otherwise fall victim to unethical and/or untrustworthy AI.

## What is the KYAI process?

The KYAI process typically involves collecting and verifying certain information about AI systems, such as their purpose, uses and model information. This helps firms assess the risk associated with a AI system and ensures compliance with the EU AI Act.

The three components of the KYAI process are a AI system identification program, AI system due diligence, and ongoing monitoring.

**Figure 1**: KYAI Process

AI System Identification Program → AI System Due-Diligence → Ongoing Monitoring
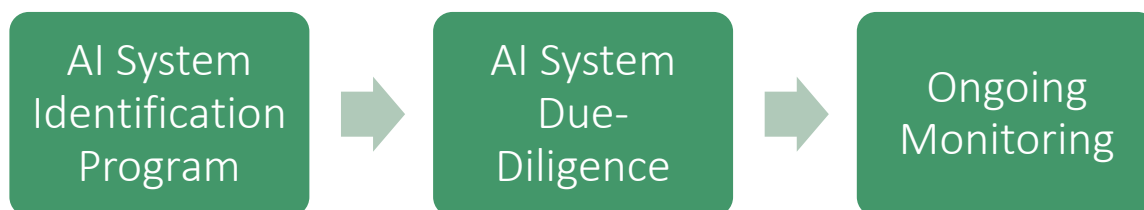
## 1. AI System Identification Program:

Many firms begin their KYAI procedures by collecting basic AI system data and information, ideally doing so electronically. This process can be called a AI System Identification Program ("AIIP").

The basic KYAI data requirements of a CIP include:

- the person(s) developing the system;
- the type of AI system;
- the intended uses; and
- the AI system's characteristics.

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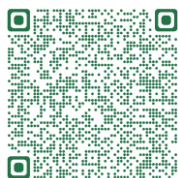
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### 2. AI System Due Diligence ("AIDD"):

Once basic AI system data is collected, firms must accurately assess the risk of harm the AI system presents. This stage is known as AI system diligence ("AIDD"). AIDD involves a more in-depth examination of AI system information and risk factors, particularly for higher-risk AI systems, to mitigate the related risks of harm.

Key aspects of AIDD typically include:

- **Intended Purpose**: When onboarding a AI system, firms will often investigate and document the intended purpose to ensure they understand how it can(will) be used.
- **Risk assessment**: To help establish a AI system's risk category, firms will consider factors like its potential impact(s) on parts of society, data governance, and its end-users. To ensure the risk level is accurate, many firms will screen entities against some of the following lists and sources:

In line with recommendations for its financial crime equivalent, Know Your Client ("KYC") (i.e. AI systems are akin to 'customers'), firms should follow the Financial Action Task Force's ("FATF") risk-based approach with their KYAI practice to allow them to balance their compliance obligations in a proportionate, efficient way. AI systems who present a higher risk may be subject to more intensive risk-management and compliance measures, while lower-risk customers may receive the regulatory treatment. If a AI system's risk profile suggests that it poses an unacceptable of harm to individuals, the firm may be required to stop deployment or remove an AI system from the market.

### 3. Ongoing Monitoring

Another essential component of the KYAI process is ongoing monitoring – in this case, often referred to as perpetual KYAI ("pKYAI"). This involves regularly checking AI systems relative to their risk profile and behaviour, which may have changed over time. For example, a change of data source/input to a AI system may flag a KYAI alert. Specialist software and employee training can help firms stay ahead of changes in the KYAI compliance landscape.

## Why is KYAI Important?

KYAI is important for protecting both firms and individuals from risks of harm posed by AI systems. It is also linked to regulatory requirements under the EU AI Act.

Firms must always verify the identity of new AI systems before they are deployed (i.e. 'onboarded') and continue to monitor them throughout the AI system lifecycle. As well as detecting and preventing harmful activity, KYAI can help firms better understand and serve their stakeholders. When firms around the world work together and share information, it can help slow the spread of financial crime.

### KYAI Regulation: EU AI Act

The KYAI process can be linked to requirements under the EU AI Act. The EU AI Act is a proposed binding legal framework requiring relevant companies to establish a risk-based approach to mitigate or prevent harms associated with certain uses of AI. It aims to be a flexible, horizontal framework, and to set minimum requirements to address AI-related risks without unduly constraining AI innovation.
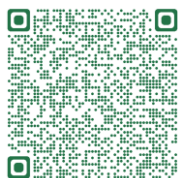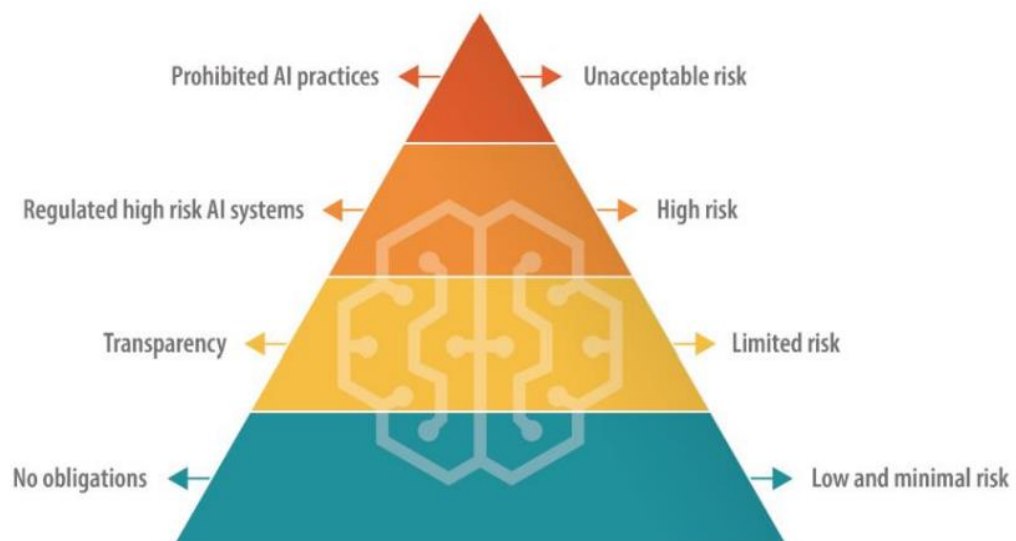
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Developers of high-risk AI systems will need to conduct both pre-deployment conformity assessments and post-market risk management to demonstrate that their systems meet all the requirements in the EU AI Act's risk framework. It will apply to providers of AI systems, as well as to certain distributors, importers and users, subject to conditions. It will have a wide territorial reach, including to non-EU organisations that supply AI systems into the EU.

The EU AI Act categorises different uses of AI as either entailing (i) unacceptable risk, (ii) high risk or (iii) low or minimal risk. Category (i) AI systems are prohibited for use or development (e.g. for subliminal distortion of a person's behaviour that may cause physical or mental harm; exploiting vulnerabilities of specific groups of people like the young, the elderly, or persons with disabilities; social scoring that may lead to unjustified or disproportionate detrimental treatment; and real-time remote biometric identification in publicly accessible spaces by law enforcement except for specific actions like searching for missing persons or counterterrorism operations). Category (ii) high risk AI systems are required to implement "risk management measures" among other conformity requirements (e.g., pertaining to data governance, disclosure, human oversight, record keeping, etc.). Category (iii) systems are subject to very few binding requirements but are encouraged to conform to voluntary codes of conduct (see **Figure 1** below for a Graphical representation of the proposed EU AI Act risk classification). Under Article 65 of the EU AIA, market surveillance authorities may also evaluate certain AI systems that present a risk "to the health or safety or to the protection of fundamental rights" and require corrective action plans. **In this sense, the KYAI implied requirement relates to understanding the risk level of an AI system**.

**Figure 2**: Graphical Representation of the Proposed EU AI Act Risk Classification

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### Risks and Penalties for KYAI Non-Compliance

Non-compliance with KYAI requirements can have serious repercussions for firms. The risks to firms include using AI systems that pose an unacceptable risk of harm to individuals. This can lead to reputational damage, financial losses, and decreased client confidence.

The penalties for non-compliance with KYAI regulatory requirements include fines and even imprisonment. For example, a breach of Article 5 of the EU AI Act can result in fines of EUR 40,000,000 or 7% of worldwide annual turnover (whichever is higher).

## Who Needs to Comply with KYAI Regulations?

All firms using, developing or deploying AI systems in the EU must comply with KYAI regulations. This includes core, application, and industry AI. These can all under the category of 'Developers' or Deployers' under the EU AI Act..

## The Importance of Automation in KYAI

KYAI compliance requires significant resources. Rising numbers of AI systems and increasingly complex regulations mean that manual KYAI processes are often unable to meet compliance needs and subsequently expose companies to unacceptable levels of risk. Given the risks – which include financial penalties and criminal liability – it is crucial that companies implement an automated KYAI solution.

Automated KYAI software – often known as electronic KYAI ("eKYAI") – offers a range of significant compliance benefits, including:

- **Improved speed**: Automated KYAI tools accelerate the KYAI process, facilitating faster AI system due diligence, and post-market AI system monitoring, than would have been possible with manual checks.
- **Increased accuracy**: Software platforms increase the accuracy of KYAI checks. Companies that collect large amounts of digital data as part of their KYAI process may benefit from machine learning ("ML") systems. Powered by AI algorithms, ML-based systems enable companies to use established data to make decisions about the future behavior of their AI systems and then adjust their compliance measures without any need for further human input. In practice, ML systems may be used to further automate post-market AI system and spot when AI systems diverge from their expected behaviours. Similarly, ML may be able to enhance false positive remediation by using digital data to make faster, accurate decisions about behavioural changes.
- **Adaptability**: The AI system risk landscape changes constantly as innovators develop new AI systems and firms onboard them to augment business processes. Automated KYAI tools help firms react to those changes. Firms may implement proactive risk management techniques, react to compliance challenges quickly, and ensure new threats are addressed with minimal disruption to customers.

As the AI system landscape evolves, firms need innovative software partners who understand the challenges of KYAI. AI & Partners' EU AI Act RegTech tool, Orthrus, offers a solution for AI system identification, risk classification, and monitoring. Tailored risk management frameworks means faster and more accurate KYAI, reducing onboarding time and enhancing customer experience.