



EU AI Act

Consumer Duty: A regulatory approach to businesses

April 2024



Consumer Protection: *“Safeguarding of buyers of goods and services, and the public, against unfair practices in the marketplace.”*

Consumer protection within the context of the EU AI Act is addressed in several sections that highlight the Act's commitment to safeguarding consumers' rights and interests, especially in relation to high-risk AI systems.

This presentation examines data from the FCA's approach to consumers regime to provide insights relating to how regulators may use their powers and tools to protect individuals from high-risk AI systems, in light of its consumer protection objective. Salient aspects are as follows:

Harmonized Rules and Complementarity to Existing Union Law

The EU AI Act emphasizes that the harmonized rules applicable to high-risk AI systems should be consistent with existing Union law, particularly concerning consumer protection. It clarifies that the Regulation is complementary to existing Union law on consumer protection, among other areas, ensuring that all rights and remedies provided to consumers remain unaffected and fully applicable.

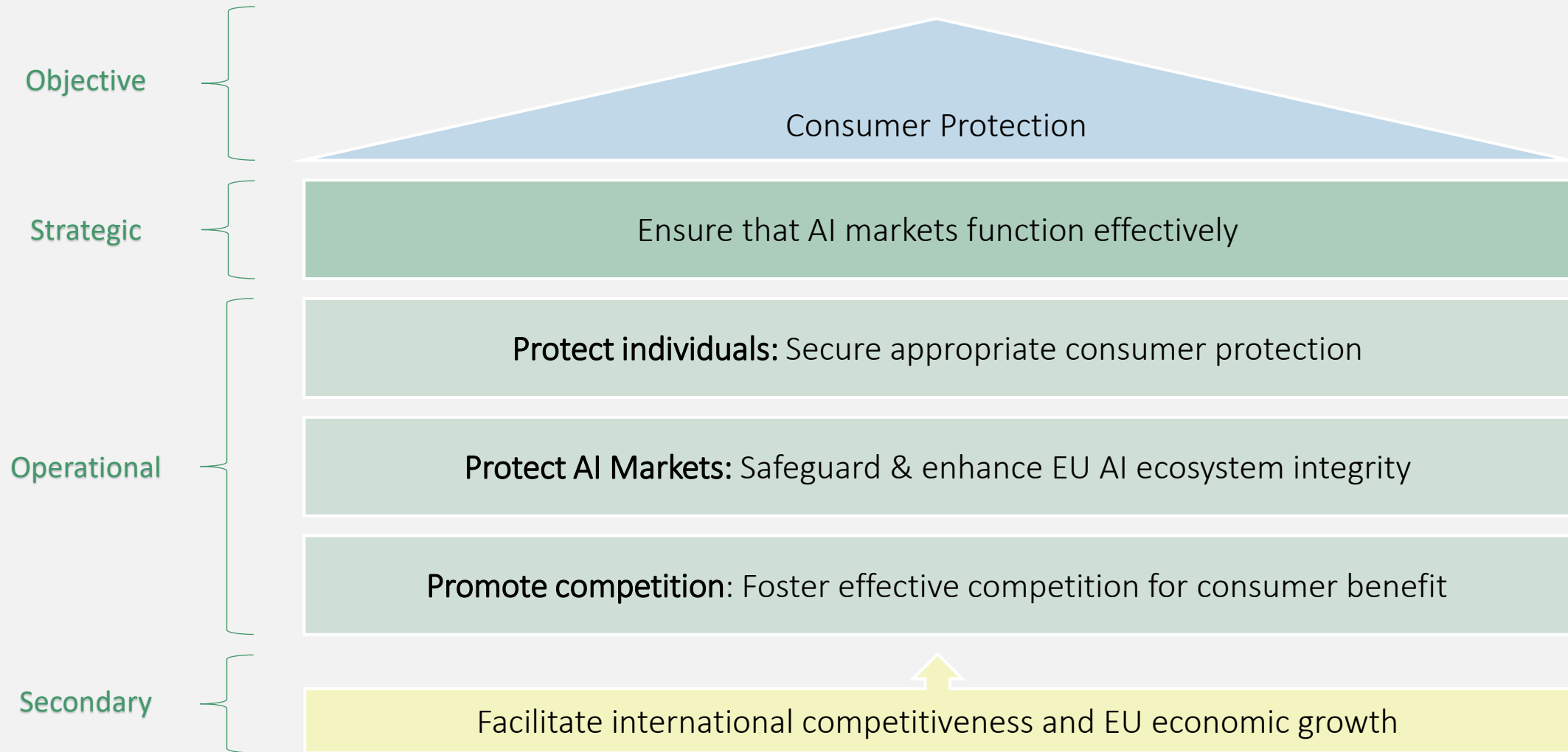
Market Surveillance and Control

The Act specifies that Regulation (EU) 2019/1020, which deals with market surveillance and compliance of products, applies to AI systems covered by the AI Act. This includes ensuring that any reference to a product under Regulation (EU) 2019/1020 includes AI systems within the scope of the AI Act. This integration underscores the importance of market surveillance in enforcing the requirements and obligations of the AI Act, including those related to consumer protection.

Amendment to Directive (EU) 2020/1828

The AI Act also amends Directive (EU) 2020/1828, which focuses on representative actions for the protection of the collective interests of consumers. This amendment adds the AI Act to the Directive, reinforcing the Act's role in protecting consumers against potential harms caused by AI systems.

Interconnected objectives designed to protect consumers from harm



Four overarching outcomes expected from AI

Fair Value

- AI systems should be designed and operated to ensure that consumers receive fair prices and quality in AI-driven products and services.
- This includes the use of AI in pricing algorithms, personalization of services, and quality control processes to prevent unfair or discriminatory outcomes.

Suitability and Treatment

- AI systems must be developed and deployed to ensure that products and services are suitable for consumers, adhering to high standards of fairness and ethical considerations.
- This involves AI systems that support decision-making in financial services, ensuring they are transparent, explainable, and aligned with consumers' best interests.



Confidence

- To bolster consumer confidence in AI-driven financial markets, the EU AI Act mandates robust risk assessments and transparency measures.
- This includes minimizing harm through stringent compliance and oversight mechanisms for high-risk AI systems and addressing financial crimes by ensuring AI systems are not exploitable for fraudulent purposes.

Access

- The EU AI Act supports the goal of ensuring diverse consumer needs are met through high operational resilience and low exclusion.
- This involves making AI systems accessible to persons with disabilities and paying attention to vulnerable persons, thereby reducing exclusion.

A number of powers and tools to ensure adequate protection

Consumer Redress

1. **Complaints and Redress Framework:** The EU AI Act does not specify a complaints and redress mechanism akin to financial services but emphasizes the importance of safety and compliance for AI systems, indirectly supporting consumer rights.
2. **Facilitating Redress:** While the Act focuses on pre-emptive measures for AI safety and compliance, it lays the groundwork for future mechanisms that could facilitate redress for consumers affected by AI systems.
3. **Voluntary Schemes:** The encouragement of codes of conduct and voluntary compliance with high standards may lead to industry-led redress schemes for consumers affected by AI systems, promoting accountability.

Consumer Communications

1. **Informed Decisions:** The EU AI Act mandates transparency and clarity in information provided about AI systems, enabling consumers to make informed decisions regarding their use and implications.
2. **Effective Communication:** Providers of AI systems are encouraged to communicate in a manner that is understandable to users, facilitating better comprehension and engagement with AI technologies.
3. **Regulatory Communication:** Through guidelines and codes of conduct, the Act supports efforts to educate and inform consumers about AI, enhancing their ability to interact safely and effectively with AI systems.

Consumer Vulnerability

1. **Understanding Needs:** AI system providers must consider the impact of their systems on all users, including vulnerable groups, ensuring the technology is accessible and does not exacerbate vulnerabilities [Reference 6].
2. **Skills and Capability:** The Act encourages the development of AI systems that are understandable and manageable by users, including those in vulnerable circumstances, through clear and transparent information [Reference 5].
3. **Responsive Design:** AI systems should be designed to adapt to and meet the diverse needs of users, including those from vulnerable groups, ensuring equitable access and treatment.

Access and Digital Inclusion

1. **Market Access:** The EU AI Act aims to ensure that AI systems do not create barriers to access for consumers, promoting inclusivity and preventing exclusion based on the system's operation or deployment.
2. **Equality Obligations:** While not directly addressing financial inclusion, the Act's emphasis on non-discrimination and fairness supports broader access to AI-driven services and products.
3. **Partnership and Innovation:** The Act encourages innovation and collaboration among stakeholders to improve access to AI technologies, ensuring that AI systems contribute positively to societal and economic inclusion.



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Thank You!

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