

AI Act

Next steps: Implementation

Compliance timelines, secondary legislation, and Commission guidelines

Overview

Compliance deadlines:

- By 6 months after entry into force: Prohibitions.
- By 9 months after entry into force: Codes of practice for General Purpose AI (GPAI) must be finalised.
- By 12 months after entry into force: GPAI rules apply, appointment of Member State competent authorities, and annual Commission review and possible amendments on prohibitions.
- By 18 months after entry into force: Commission issues implementing acts creating a template for high risk AI providers' post-market monitoring plan.
- By 24 months after entry into force: Obligations on Annex III high risk AI systems apply.
- By 36 months after entry into force: Obligations on Annex II high risk AI systems apply.

Secondary legislation

The Commission can introduce delegated acts on:

- Criteria that exempt AI systems from high risk rules.
- High risk AI use cases.
- Thresholds classifying General Purpose AI models as systemic.
- Technical documentation requirements for high risk AI systems and GPAI.
- Conformity assessments.
- EU declaration of conformity.

The Commission can introduce implementing acts on:

- Approving codes of practice for GPAI and generative AI watermarking.
- Establishing the scientific panel of independent experts.
- Conditions for AI Office evaluations of GPAI compliance.
- Operational rules for AI regulatory sandboxes.
- Information in real world testing plans.
- Common specifications (where standards do not cover rules).

Commission guidelines

The Commission can provide guidance on:

- By 12 months after entry into force: High risk AI serious incident reporting.
- By 18 months after entry into force: Practical guidance on determining if an AI system is high risk, with list of practical examples of high-risk and non-high risk use cases.
- With no specific timeline, the Commission will provide guidelines on:
 - The application of the definition of an AI system.

- High risk AI provider requirements.
- Prohibitions.
- Substantial modifications.
- Transparency disclosures to end-users.
- Detailed information on the relationship between the AI Act and other EU laws.

Detailed readout

For most delegated and implementing acts, there is no specific required timeline for the Commission to adopt delegated acts under the AI Act.

Evaluation and review (Art. 84(7))

- Safety components and products that undergo third party conformity assessments under the list of EU laws in Annex II are considered high risk. Any delegated or implementing acts that update this list must account for the regulatory specificities of each sector under these Annex II sectoral laws and existing governance, conformity assessment and enforcement mechanisms and authorities.

Delegated Acts

High risk exemption criteria¹ (Art. 6(2d))

- The Commission can modify, add to, or delete, any of the following criteria that exempts AI systems under the Annex III use cases from high risk classification, except for profiling systems, which are always high risk. It must be based on concrete and reliable evidence that such updates will not harm health, safety, and fundamental rights. These criteria exclude providers of such systems from the main obligations (risk management, data governance, cybersecurity, etc.) by exempting AI systems that:
 - *perform a narrow procedural task.*
 - *Perform a preparatory task.*
 - *Improve results of previously completed human activity.*
 - *Detect decision-making patterns without human review.*

High risk use cases in Annex III (Art. 7)

- The Commission also add to or modify the high risk AI use cases themselves if the system falls under Annex III and poses equal or greater risk of harm as systems already considered high risk (Art. 7)²; already listed AI systems can be removed if they no longer pose significant risks.

¹ In the original Commission proposal, all AI systems under the Annex III use cases were automatically considered high risk. Co-legislators added the above 4 criteria to filter out AI systems that do not actually present significant risks, even if they are used in Annex III high risk settings: Non-banned biometrics, critical infrastructure, education, employment, essential public and private services, law enforcement, border control, and judicial and democratic processes.

² When adding or modifying high risk AI use cases, the Commission must account for: intended purpose; how much the system is used/likely to be used; nature and amount of data processed; the system's level of autonomy and corresponding capacity for human intervention; power imbalances and vulnerable users; whether outcomes produced by the system are corrigible and reversible; and whether existing EU laws already provide effective remedies for harms from the potentially designated system.

Technical documentation (Art. 11(3))

- The Commission can update the list of information that must be included in the technical documentation, which high risk AI providers must produce to allow national competent authorities and notified bodies to assess compliance upon request.

Conformity assessment (Art. 43(5-6))

- The Commission can update the conformity assessment procedures, based on internal control (Annex VI) and an assessment of the technical documentation and quality management system by the notified body (VII), respectively.
- Currently, only providers of non-banned biometric systems have the option to either complete their conformity assessment based on internal control or submit to an external assessment. The Commission may amend this to subject providers of other high risk AI systems in Annex III to an external assessment.

EU declaration of conformity (Art. 48(5))

- The Commission can update the content of the EU declaration of conformity (Annex V).

Classification of GPAI models as presenting a systemic risk (Art. 52a(3))

- The threshold for classifying a GPAI model as systemic, and thereby subject to more stringent requirements, is currently measured as the amount of computing power used to train the model (10²⁵ floating operation points per second (FLOPS)). The Commission can amend this threshold, as well as supplement the high impact capabilities benchmarks and indicators that measure a model's high impact capabilities, considering future AI advancements, such as algorithmic improvements or increased hardware efficiency.

Procedure for designating a GPAI model as systemic (Art. 52b(4))

- As noted in the last point, the Commission can specify and update the high impact capabilities benchmarks and indicators³ used to designate a GPAI model as systemic.

GPAI model provider requirements (Art. 52c(4-4a))

- The Commission will provide standardised measurement and calculation methodologies for providers of GPAI models to support them in producing technical documentation that is used to assess compliance by the AI Office and national competent authorities. It will especially aim to help providers with measuring the number of FLOPS used during training, the training time, and the model's known or estimated energy consumption.

³ High impact capabilities benchmarks and indicators currently includes: number of parameters; quality or size of dataset; amount of compute in FLOPS; estimated training time, costs, and energy consumption; number of tasks it can perform and adaptability to learn new tasks; degree of model autonomy and scalability; model access to other tools or plugins; if it has 10,000 registered business users; and its number of end-users (not 45 million, as in the DSA and DMA) (Annex IXc).

- The Commission can update the list of information that must be included in the technical documentation produced for authorities to assess compliance⁴, and the separate technical documentation that GPAI model providers must give to downstream providers that integrate the upstream GPAI model into their downstream AI system⁵.

Implementing Acts

Codes of practice on detection and labelling of AI-generated content (Art. 52(4a))

- The Commission can approve voluntary codes of practice on effective implementation of detection and labelling of AI-generated content through implementing acts. This includes supporting practical arrangements for checking authenticity and provenance to enable the public to distinguish between real and artificial content, making the detection mechanisms accessible, and facilitating cooperation of actors throughout the value chain (Recital 70c).
- But if it deems the codes of practice inadequate, the Commission can introduce an implementing act specifying common rules for implementing watermarking.

Codes of practice on requirements of GPAI model providers (Art. 52e(7 & 9))

- The Commission can approve voluntary codes of practice for GPAI model provider requirements, including systemic model requirements, and give them general validity within the EU through implementing acts.
- The AI Office must develop codes of practice by 9 months after entry into force, through optional consultation with relevant stakeholders. Providers that voluntarily adhere to the codes of practice will be presumed to be in conformity until European harmonised standards are published, compliance with which will lead to a presumption of conformity.
- If codes of practice cannot be finalised by 12 months after entry into force, the Commission may issue implementing acts to create common rules to support GPAI model providers in implementing their requirements.

Modalities and functioning of AI regulatory sandboxes (Art. 53a(1))

- AI regulatory sandboxes are facilities that allow AI developers to experiment under regulatory supervision, intended to provide legal clarity, improve regulatory expertise, and facilitate market access.
- The Commission can provide implementing acts detailing the modalities for the establishment, development, implementation, operation, and supervision of AI regulatory

⁴ GPAI model provider technical documentation for authorities: instructions for use; training techniques; key design choices; training data collection and curation methods; computation resources used in floating point operations per second (FLOPS); acceptable use policies; date of release and methods of distribution; model architecture and number of parameters; its modality (text/image/audio/video); and intended tasks and type of systems it can be integrated into, among other details. Systemic model providers must also include: a detailed description of the model architecture, including relationships between integrated components; the provider's evaluation strategies and their results; and measures for internal or external model evaluations, including adversarial testing (e.g. red-teaming) and model adaptations, including alignment and fine-tuning (Annex IXa).

⁵ GPAI model provider technical documentation for downstream providers: acceptable use policies; data of release and methods of distribution; model architecture and number of parameters; its modality (text/image/audio/video); and intended tasks and type of systems it can be integrated into, among other details (Annex IXb).

sandboxes, including eligibility and selection for participants, application procedure, sandbox plan and exit report⁶, and participant terms and conditions.

- In the implementing acts, the Commission must ensure that SME and startups can access sandboxes free of charge.

Testing of high risk AI systems in real world conditions outside AI regulatory sandboxes (Art. 54a)

- Real world testing may only last 6 months, data transferred to third countries must follow relevant EU laws and subject must have given informed consent.
- The Commission can adopt implementing acts to detail the elements of the real world testing plan.
- Providers, of high risk AI systems under the Annex III use cases, must produce testing plans for approval by market surveillance authorities within 30 days, otherwise the test can proceed as approved.

Scientific panel of independent experts (Art. 58b(1))

- The Commission can issue implementing acts to establish the scientific panel of independent experts. This includes the conditions, procedures and modalities for issuing qualified alerts to the Commission (that a non-designated GPAI model should be designated as systemic, and subject to stricter rules), as well as how it can request support from the AI Office to perform its tasks:
 - *Implementation and enforcement of GPAI models and systems.*
 - *Tools, methods, and benchmarks for evaluating GPAI capabilities.*
 - *Classification of different GPAI models and systems, including systemic GPAI models.*
- The panel will be selected by the Commission based on their technical knowledge and independence from any AI or GPAI provider.
- Member States can request enforcement support from the panel, but may be required to pay fees, which will be set out in an implementing act (Art. 58c(2)).

Providers' post-market monitoring (Art. 61(3))

- Providers of high risk AI systems must establish a post-market monitoring system to collect, document and analyse relevant data, including from deployers, allowing the provider to evaluate their system's continuing compliance actively and systematically.
- By 18 months after entry into force, the Commission will adopt implementing acts creating a template for the post-market monitoring plan, which is part of a provider's technical documentation available for authorities.

AI Office powers to conduct evaluations (Art. 68j(6))

- The Commission will deliver implementing acts to set out the modalities and conditions for AI Office evaluations, including when the Office involves independent experts and the selection procedure therein. These evaluations aim to assess GPAI model providers'

⁶ The exit report can be used to demonstrate compliance and should be positively taken into account by market surveillance authorities and notified bodies to accelerate conformity assessments.

compliance and investigate systemic risks at the EU level, particularly following a qualified alert from the scientific panel of independent experts.

GPAI model provider fines (Art. 72a)

- The Commission will adopt implementing acts on the modalities and practical arrangements for Commission proceedings on imposing fines on GPAI model providers for non-compliance.

Common specifications (Art. 41)

- If EU harmonised standards are insufficient or not delivered on time, the Commission can adopt implementing acts to create common specifications, covering the requirements for high risk AI systems and GPAI models, conformity with which would lead to an overall **presumption of conformity**.
- If a Member State believes that the common specification doesn't adequately cover requirements, the Commission can assess, and amend the relevant implementing act, where necessary.

Challenge to the competence of notified bodies (Art. 37(4))

- Notified bodies conduct conformity assessments under the AI Act.
- If the Commission finds that a notified body cannot meet their requirements, it asks the relevant Member State to take corrective action, including suspension or withdrawal of the notified body. If the Member State fails to do so, the Commission can suspend, restrict, or withdraw the notified body's designation through an implementing act.

Commission guidelines

General implementing of the AI Act (Art. 82a)

- The Commission will provide guidelines on the practical implementation of the AI Act, particularly on high risk AI system provider requirements, prohibitions, substantial modifications, transparency disclosures to end-users, detailed information on the relationship between the AI Act and other EU laws, and the application of the definition of an AI system.

Classification of AI systems as high risk (Art. 6(2c))

- By 18 months after entry into force, the Commission, having consulted the AI Board, will provide guidelines supporting practical implementation of determining whether an AI system is high risk or not, including practical examples of high risk and non-high risk use cases.

Reporting serious incidents (Art. 62(2))

- Serious incidents are any incident or malfunctioning that directly or indirectly leads to: death or serious damage to a person's health; to property or the environment; serious and

irreversible disruption of critical infrastructure; or breach of any EU laws protecting fundamental rights.

- By 12 months after entry into force, the Commission will provide detailed guidance on how providers of high risk AI systems report any serious incident to market surveillance authorities where the incident occurred.