

LEGAL UPDATES

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House Committee Forms AI Working Group as Regulators Emphasize Existing Authority to Regulate AI

Here's what you need to know:

1. The House Financial Services Committee formed a 12-member working group on Artificial Intelligence (AI). The group is tasked with exploring AI's comprehensive impact on financial services so that Congress can effectively govern its use. This group is likely to shape how AI is governed in financial services, and its formation presents the industry with new opportunities to engage with policymakers and influence policy.

2. At an AI symposium in Washington, D.C. earlier this month, CFPB Director Chopra, FDIC Chair Martin Gruenberg, and Federal Reserve Vice Chair Michael Barr sent a clear message with their comments: AI is already here, they possess the authority to regulate it, and financial service providers are ultimately responsible for how new technologies are deployed and used.

New AI working group

The House Financial Services Committee announced the creation of a bipartisan working group on Artificial Intelligence (AI) in a January 12, 2024 press release. Led by French Hill (R-Ark.) and Stephen Lynch (D-Mass.), the group is set to build upon the work of the House AI Task Force and President Biden's Executive Order on AI to deepen policymakers' understanding of AI's impact on financial products and services.

The in-depth inquiry will explore several issues, including:

AI's role in developing new products and services;

AI's impact on fraud prevention and compliance operations;

The advancement of supervisory and regulatory tools through AI; and

The adaptation of current and prospective legal frameworks to effectively govern AI.

By examining how AI technologies are currently being deployed, the group telegraphs that it aims to identify areas where current legislation may fall short and to propose necessary updates or new regulations. The group is also expected to address the broader implications of AI, including ethical considerations such as data privacy, algorithmic bias, and the transparency of AI decision-making processes. In other words, this group will assuredly influence how AI is governed in financial services.

The group's remaining members include Chairman Patrick McHenry (R-NC), Ranking Member Maxine Waters (D-Cal.), Sean Casten (D-Ill.), Ayanna Pressley (D-Mass.), Sylvia Garcia (D-Tex.), Brittany Pettersen (D-Col.), Young Kim (R-Cal.), Mike Flood (R-Neb.), Zach Nunn (R-Iowa), and Erin Houchin (R-Ind.).

Broader regulatory response to AI in financial services

This move is not happening in isolation; it parallels initiatives by bodies like the Consumer Financial Protection Bureau (CFPB), which has been increasingly vocal about AI, particularly in relation to fairness, transparency, risk management, and data privacy. A joint statement issued by the CFPB, DOJ, EEOC, and FTC in April 2023 cautioned that the use of automated systems and advanced technology is not an excuse for noncompliance (read more here). Shortly after, the CFPB proposed a rule establishing quality control standards for the use of automated valuation appraisal models. In September 2023, the CFPB issued new guidance outlining lenders' obligations under the Equal Credit Opportunity Act (ECOA) and Regulation B when using AI or advanced algorithms in credit decisions (read more here).

It's important to note that the CFPB is not the only federal regulator focused on AI. At the National Fair Housing Alliance's Responsible AI Symposium in Washington, D.C. earlier this month, FDIC Chair Martin Gruenberg stressed the imperative for financial institutions to align AI use with existing laws, encompassing consumer protection, safety, and soundness. He highlighted the importance of banks managing risks related to AI used by third-party entities. Federal Reserve Vice Chair Michael Barr echoed this sentiment, emphasizing the need for AI tools to be both explainable and in compliance with the Federal Reserve's model risk management standards. He also zeroed in on AI in lending and underwriting, insisting that these technologies must align with fair lending laws and the Community Reinvestment Act.

What this means to you

Clearly defining AI: Has your organization clearly defined "artificial intelligence?" Initially, "AI" conjured images of thinking computers and robots, but as familiarity with the term has grown, it has

seemingly expanded to encompass technology that automates tasks once reliant on human intervention, which could arguably include any technological advancement. With financial service providers shouldering the ultimate responsibility for how AI is used, both within their organization and by their vendors, they must be able to communicate directly about AI—something that is incredibly difficult if everyone has their own idea of what AI is. A well-defined AI concept within your organization ensures you can accurately navigate and respond to regulatory requirements.

AI is already here: While some may perceive AI as a compliance concern for the distant future, it's crucial to recognize that regulators view AI as a present-day concern that they already possess the authority to regulate. This emphasizes the importance of aligning your perception of AI with that of your regulators and staying informed about areas where regulators have discussed AI's role.

Contact us

If you have questions about AI regulations, please contact Alexandra McFall, Marci Kawski, Leslie Sowers, or your Husch Blackwell attorney.