EUROPEAN CENTRAL BANK

EUROSYSTEM

Technical working document

produced in connection with ECB Opinion CON/2026/10[1]

Drafting proposals in relation to the proposed amendments to Regulation (EU) 2024/1689

(the AI Act)

Text proposed by the Commission	**Amendments proposed by the ECB[2]**
Amendment 1 Article 1, point (2a), of the proposed regulation (new) (Article 2 of the AI Act)	
No text.	**'(2) in Article 2, the following paragraph 13 is added:** **"13. This Regulation is without prejudice to the powers conferred on competent authorities, including the European Central Bank (ECB), responsible for the supervision of credit institutions under Regulations (EU) No 1024/2013 and (EU) No 575/2013, and Directive 2013/36/EU.;"'**
Explanation *The ECB welcomes the mechanism established in the AI Act whereby credit institutions that comply with Union financial services law are also deemed in compliance with the AI Act. However, this mechanism might mislead market parties into thinking that the ECB applies the AI Act within the exercise of its prudential supervisory functions. In order to avoid this incorrect impression, the AI Act would benefit from a clear delineation between the responsibilities of different supervisors, since both the ECB and market surveillance authorities are responsible for supervising governance requirements and associated risks, albeit from different perspectives. To ensure legal certainty and consistency with the Treaty, the ECB proposes to clarify that the AI Act is without prejudice to the powers conferred on the ECB as a prudential supervisor of credit institutions.* *See paragraph 3.1 of the ECB Opinion.*	

1 This technical working document is produced in English only and communicated to the consulting Union institution(s) after adoption of the opinion. It is also published on EUR-Lex alongside the opinion itself.

2 Bold in the body of the text indicates where the ECB proposes inserting new text. Strikethrough in the body of the text indicates where the ECB proposes deleting text.

Text proposed by the Commission	Amendments proposed by the ECB[2]
Amendment 2 Article 1, point (12a), of the proposed regulation (new) (Article 40 of the AI Act)	
No text	**‘(12a) in Article 40, the following paragraph 4 is added:** **“4. The application of harmonised standards under this Article shall be voluntary and without prejudice to the ECB’s prudential supervisory tasks exercised under Regulations (EU) No 1024/2013 and (EU) No 575/2013, Directive (EU) 2013/36/EU and sector-specific legislation.”’**
Explanation *Market participants can adopt harmonised standards to ensure compliance with Article 40 of the AI Act. These harmonised standards may overlap with sectoral legislation, especially in highly regulated environments such as the banking sector. In particular, credit institutions are already subject to stringent regulation, encompassing both soft law (e.g. European Banking Authority (EBA) guidelines) and hard law (e.g. the CRR and the CRD) instruments. In order to clarify the legal framework and facilitate compliance (including by credit institutions), the ECB sees merit in clarifying that the adoption of harmonised standards, including by credit institutions, is voluntary and is without prejudice to the ECB’s prudential supervisory tasks and sector specific legislation. This clarification should be explicitly set out in the operative part of the AI Act.*	
Amendment 3 Article 1, point (24a), of the proposed regulation (new) (Article 74(7) of the AI Act)	
No text	‘**(24a) in Article 74(7), the second subparagraph is replaced as follows:** “7. […] **National market surveillance authorities supervising regulated credit institutions regulated under Directive 2013/36/EU shall report without delay to the ECB and to competent authorities as defined in Regulation**

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	(EU) No 575/2013 any information identified in the course of their market surveillance activities that is relevant to the prudential supervisory tasks of the ECB and of such competent authorities. **The ECB and competent authorities as defined in Regulation (EU) 575/2013 shall be able to make use of any information lawfully available to them, including information received under this Article, in the exercise of their supervisory tasks; and may share with national market surveillance authorities supervising credit institutions regulated under Directive 2013/36/EU any confidential information that is relevant to the exercise of their surveillance tasks under this Regulation.**"'

Explanation

The ECB and other competent authorities are bound by strict professional secrecy rules and may share confidential supervisory information only where Union law explicitly so allows. Under the current AI Act, Articles 74 and 78 do not provide a sufficient legal basis for reciprocal information sharing between the ECB and other competent authorities on the one hand, and market surveillance authorities on the other hand. Article 74 allows market surveillance authorities to share information with the ECB, but not with competent authorities. In addition, Article 78 does not list the ECB among the authorities authorised to exchange information. As a result, the ECB cannot share its prudential findings with market surveillance authorities under the AI Act, forcing market surveillance authorities to repeat investigations, increasing the reporting burden on credit institutions, and risking less effective supervision and enforcement of AI-related risks. In addition, given that under the AI Act credit institutions are deemed to comply with the AI Act if they comply with similar obligations under Union financial services law, the fact that currently the ECB is not able to share information with national market surveillance authorities poses serious coordination and enforcement problems in the case of breaches committed by credit institutions.

These amendments support the simplification objective of the proposed regulation by enabling market surveillance authorities to rely on information already collected by the ECB and competent authorities, thereby avoiding duplicative requests and investigations and reducing administrative and reporting burdens for credit institutions. In addition, it should be made clear that the information is not used by the ECB in its capacity as a central bank, nor – where competent authorities are concerned – for purposes unrelated to supervision.

To ensure the effectiveness of the exchange of information framework, similar coordination is deemed appropriate with market surveillance authorities that are also competent authorities, regardless of

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whether they participate in the SSM or not. This would create a coherent framework for information sharing with all relevant prudential supervisors, preventing gaps in enforcement and ensuring consistent application of the AI Act. *See paragraphs 3.1 to 3.3 of the ECB Opinion.*	
Amendment 4 Article 1, point (28a), of the proposed regulation (new) (Article 96 of the AI Act)	
No text	'**(28a) in Article 96, the following paragraph 3 is added:** **"3. The European Banking Authority, the European Securities and Markets Authority, and the European Insurance and Occupational Pensions Authority may provide input for the development of guidelines or guidance in relation to the application of this Regulation in the context of credit institutions, investment firms and insurance undertakings regulated by Union legal acts."'**
Explanation *Credit institutions are subject to comprehensive governance, risk management and supervisory requirements under Union law, including the CRR, CRD, Regulation (EU) 2022/2554 of the European Parliament and of the Council[3] and the EBA's guidelines and supervisory practices. These frameworks address, in a sector-specific and operationally mature manner, many of the risks that the AI Act seeks to mitigate.* *In this context, and following the simplification objective of the proposed regulation, the involvement of the EBA and the European Insurance and Occupational Pensions Authority in the development of Commission guidelines and guidance would help ensure that AI-specific supervisory expectations are aligned with, and build upon, existing prudential and conduct supervision in the financial sector. Drawing on its established role within the European System of Financial Supervision, these authorities are uniquely placed to identify overlaps, complementarities and potential inconsistencies between the AI Act's requirements and existing banking and financial services legislation, thereby supporting a coherent*	

3 Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014 and (EU) 2016/1011 (OJ L 333, 27.12.2022, p. 1, ELI: http://data.europa.eu/eli/reg/2022/2554/oj).

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and proportionate application of the rules. *Moreover, given the technical and operational complexity of AI systems deployed by credit institutions, sectoral supervisors possess the necessary domain-specific expertise to assess compliance with requirements relating to data governance, model risk, cybersecurity and human oversight. These authorities' contribution would facilitate a supervisory approach that encourages reliance on existing supervisory mechanisms where appropriate, and prevents duplication and regulatory fragmentation.* *Finally, involving these authorities in the preparation of Commission guidelines would support a proportionate, risk-based supervisory approach that recognises the maturity of the governance and control frameworks already in place within regulated credit institutions. This would reduce unnecessary administrative burdens while preserving high standards of safety, accountability and the protection of fundamental rights pursued by the AI Act.* *See paragraph 3.3 of the ECB Opinion.*	
Amendment 5 Article 1, point (31b), of the proposed regulation (new) (Annex III, paragraph 5, point (b), of the AI Act)	
No text	**'(31b) In Annex III, paragraph 5, point (b), is replaced by the following:** **"(b) AI systems intended to be used to evaluate the creditworthiness of natural persons or establish their credit score, with the exception of AI systems used for the purpose of detecting financial fraud and AI systems intended to assess the creditworthiness of natural persons or establish their credit score, when they rely solely on linear or logistic regressions under human supervision;"'**
Explanation *With regard to AI systems intended to assess the creditworthiness of natural persons or establish their credit score that rely solely on linear or logistic regression or decision trees under human supervision, generalised linear models are widely used by credit institutions for calculating key risk management and supervisory metrics in the context of prudential risk measurement and capital adequacy, and their use is also recognised by the ECB. Such models are inherently transparent and interpretable and do not raise the risks that justify the AI Act's enhanced governance requirements.* *See paragraphs 4.1 to 4.3 of the ECB Opinion.*	