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July 2023 AI UPDATE
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OVERVIEW	Last month, Congress and the Biden Administration ramped up efforts to regulate AI as the emerging technology continues to integrate with everyday life. U.S. policymakers are anxious to establish a regulatory framework for AI sooner rather than later to avoid losing out on the opportunity to lead in this field to the European Union and China. Sen. Majority Leader Schumer (D-NY) has become one of the most active Senators on the AI issue and used this previous work period to build on his SAFE Innovation Framework, as well as utilize the must-pass National Defense Authorization Act (NDAA) to secure amendments related to the technology. The Biden Administration also engaged heavily with leading AI companies to secure safety commitments on the development of AI. All the while, financial regulators like the SEC, Federal Reserve, and CFPB made remarks on how AI continues to permeate the financial services sector and urged caution. Below we will review this month's Congressional and Administrative activity regarding AI.
CONGRESSIONAL UPDATE	Senate Majority Leader Schumer kicked off July by dedicating a large part of his Dear Colleague Letter to AI, detailing how all Senators would be able to attend a classified briefing with the Department of Defense and the Intelligence Community on the technology. That briefing was the first in a series of three senators-only AI briefings scheduled for this summer, an unusual occurrence on Capitol Hill. Leader Schumer has subsequently announced a series of nine AI insight forums for the fall as well. We expect the Majority Leader to continue to push and build on his SAFE Innovation Framework, which was released in June. Aside from Congressional activity in the Senate spearheaded by the Majority Leader, there was ample other activity that took place this month related to AI. **NDAA** Both the House and the Senate passed their respective versions of the NDAA for Fiscal Year 2024 last week before Congress dismissed for the August recess. Both the House and Senate versions of the defense bill included several amendments related to AI that we will monitor when the conference process begins in earnest after the Labor Day weekend. **Report on AI Regulation in Financial Services**: This amendment directs regulators of the financial services industry to produce reports analyzing how AI is and ought to be used by the industry and regulators. The amendment was introduced by Sens. Schumer, Rounds (R-SD), Heinrich (D-NM), and Young (R-IN). **AI Bugs**: The amendment directs the Pentagon to shape and run a program to uncover susceptibilities in its AI systems. The amendment was introduced by Sens. Schumer, Rounds, Heinrich, and Young. - Both these amendments and two other amendments related to vulnerability analyses of AI-enabled military applications and reports on data-sharing and coordination were included in the Senate version of the FY24 NDAA and were deemed the "AI, Group of Four" package. The House does not have similar amendments in its version of the NDAA. We think this package of four amendments could make its way into the final version of the NDAA, given how much Leader Schumer has prioritized the issue. Speaker McCarthy has also spoken about the AI issue but has taken more of a tone of not overregulating the industry.

- In the House of Representatives, the FY24 NDAA included AI amendments related to military defenses, such as an amendment that calls for a study by the Pentagon to identify potential weaknesses in US military defenses that could be exploited by AI and an amendment to encourage the Department of Defense to explore how AI can better improve the U.S.' military and defense posture.

AI Legislation

Several pieces of legislation related to AI were introduced last month and we expect this activity to only increase as the technology's use increases. While Leader Schumer's AI Framework is the most prominent proposal thus far, it is still just a proposal. Below we list some of the more recent AI proposals from last month. Many of the lawmakers who introduced these proposals will likely try to convince Leader Schumer to incorporate them into his broader framework. Sen. Casey (D-PA), who sponsored two of the bills below, has already expressed his desire to include his initiatives into Leader Schumer's framework.

- **No Robot Bosses Act:** The bill, introduced by Sen. Casey (D-PA), would prohibit employers from relying on automated systems like algorithms and ML tools from making employment decisions.
- **Exploitative Workplace Surveillance and Technologies Task Force Act**: The bill would create a government entity that examines workplace surveillance and submits the findings to Congress. The task force would "analyze the effects of workplace surveillance and automated decision systems on employee salaries and scheduling." The bill is also sponsored by Sen. Casey.
- **CREATE AI Act:** The legislation, which was introduced last Friday, would establish the National AI Research Resource (NAIRR) to provide AI researchers and students from diverse backgrounds with greater access to resources, data, and tools necessary to develop safe AI. The legislation is sponsored by the co-chairs and vice chairs of the House Congressional AI caucus, Reps. Eshoo (D-CA), McCaul (R-TX), Beyer (D-VA), and Obernolte (R-CA). Companion legislation was introduced in the Senate by Sens. Heinrich, Young, Booker (D-NJ), and Rounds.
- **AI Training Expansion Act:** The legislation advanced from the House Oversight and Accountability Committee last month with broad, bipartisan support. The bill would require federal officials to be trained in AI systems. Homeland Security and Governmental Affairs Committee (HSGAC) Chair Peters (D-MI) introduced similar legislation in the Senate this year, entitled the AI Leadership Training Act.
- **Transparent Automated Governance (TAG) Act**: The bill advanced out of HSGAC last month and would require agencies to be open about their AI use and create an appeals process for citizens who believe they've been wronged by an automated system. While this would only apply to companies contracting with the federal government, presumably, it will have spillover effects to private party transactions over time. The bill was introduced in June.
- **AI LEAD Act**: The bill would require federal agencies to appoint a "chief AI officer" that serves as the point person on the acquisition and use of AI systems by that agency. It would also create a "chief AI officers council" — modeled on similar interagency confabs for chief acquisition, information and data officers — that would meet regularly to swap notes and sketch out a government-wide AI strategy.
- **CHIPS 2.0:** While this legislation has yet to be introduced, Senate Majority Leader Schumer (D-NY) has expressed a desire to pass follow-up legislation to the CHIPS and Science Act that incorporates bipartisan priorities not included in the first legislation. Legislation on AI would fit naturally in the pushback against China, but no substantive

	discussions have taken place, and it does not appear likely that lawmakers on both sides will be able to agree on another such effort in the near future. **AI Hearings** Last month, the Senate Judiciary Subcommittee on Privacy, Technology, and the Law held a hearing entitled, "Oversight of AI: Principles for Regulation." The hearing was not well attended by either party, but there was a consensus that there needs to be a regulatory body in the US to oversee AI technologies. The Senate Judiciary Subcommittee on Intellectual Property also held its second hearing related to AI and copyright. The Senate Judiciary Committee has been the most active committee related to AI issues as Chair Durbin (D-IL) has taken a particular interest in the topic. In May, Chair Durbin organized an AI briefing at the White House with the head of the Office of Science and Technology Policy with roughly 20 senators. We expect the Judiciary Committee to continue holding a regular cadence of hearings on the topic into the fall. HSGAC Chair Peters has also taken an interest in the AI issue and stated that the committee will hold one AI hearing per work period, although, the Committee's scheduled hearing on AI entitled, "Governing AI through Acquisition and Procurement" was postponed last month. There have been concerns expressed by Democratic lawmakers regarding the use of artificial intelligence, particularly regarding discriminatory bias, particularly in lending decisions. A hearing on how generative AI impacts housing and financial services was requested by Ranking Member Maxine Waters (D-CA) earlier this summer, but it has not yet been scheduled. As the Subcommittee on Digital Assets, Technology and Inclusion broadens its focus into other financial technology issues, AI seems like a ripe topic. Finally, we understand the Senate Banking Committee is considering holding a hearing on AI in September.
ADMINISTRATION UPDATE	The Biden Administration continued to ramp up activity in the artificial intelligence space last month by securing a set of commitments from several tech companies, including OpenAI, Google, Amazon, Anthropic, Inflection AI, Meta, and Microsoft, to make their AI technologies safer. Some of the eight voluntary commitments include the watermarking of AI-generated content to stop the spread of misinformation and third-party security checks. Many of these practices were already in place at these companies beforehand, so they don't represent new regulations. Additionally, several consumer groups were critical of the commitments, arguing that they fall short of what they had hoped for. Last month, President Biden also said that his administration would continue to put out executive orders aimed at reining in AI and guiding the use of the technology but underscored that these actions will need to be complemented by legislative efforts from Congress. **SEC** The SEC recently proposed a rule that would require broker-dealers and investment advisers to take steps to address conflicts of interest associated with their use of predictive data analytics and similar technologies like AI. The proposed rule will be published in the Federal Register and the public comment period will remain open until 60 days after its publication, as is standard. SEC Commissioner Peirce has already criticized the proposal, arguing that the definition of "covered technology" is overly broad and could include items such as commonly used software, math formulas, and statistical tools. Aside from this proposed rule, SEC Chair Gensler gave a speech to the National Press Club this month about recent advances in generative AI and raised concerns that only a few tech platforms could dominate the field, which could result in financial institutions using the same inaccurate or irrelevant information to make decisions. He added that the use of generative AI could "exacerbate the inherent network interconnectedness of the global financial system." Gensler has been outspoken about how transformative AI will be for the financial services industry at Congressional hearings and previously wrote a paper at MIT exploring how regulations can't address emerging AI risks. We expect the SEC to continue to engage on this topic more heavily, especially as AI integrates with financial services.

Federal Reserve
Vice Chair for Supervision Barr raised concerns this month that AI and ML could exacerbate bias in lending practices and violate fair lending laws, increasing disparities they are supposed to address. Barr's speech at the National Fair Housing Alliance national conference comes after the Fed announced two policy initiatives to address appraisal bias in mortgage transactions last month, specifically related to quality control standards in automated valuation models and incorporating "reconsidering of value" into the home appraisal process for financial institutions.

CFPB
CFPB Director Chopra gave an interview last month discussing how the CFPB is working on a broad regulation related to AI, "especially the use of data from a discrimination perspective from all facets of the underwriting process." The bureau has been active over the last few months on AI issues, proposing a rule regarding home appraisals done by algorithms and issuing a separate warning about chatbots used by financial firms. While Chopra gave few details about the proposed rule, aside from its broad nature, he did mention that the regulation would address more than just AI issues. He also stated that the Bureau is just getting started on issues related to facial recognition, voice cloning, and biometrics. In the meantime, the largest regulatory risk from the CFPB in the AI space is a finding of unfair, deceptive or abusive practices and following enforcement actions to set market standards.

FTC
FTC Chair Khan has been explicit that she believes the commission has ample authority under consumer protection and competition laws to police AI companies and address problematic behavior, like turbocharging frauds and scams. She's called AI an emerging threat to consumers, raising concerns about bias and discrimination in AI tools, the lack of transparency with algorithms, and marketplace dominance concerns. It's also worth mentioning that the FTC opened an investigation into OpenAI's ChatGPT last month, asking for information on how the chatbot can harm consumers through disinformation and how the company secures its systems.