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DIGITALLEGAL ACADEMY 2025

by TaylorWessing

GPAI launch 2 August 2025: Guidelines and Codes of practice

8 July 2025 | Dr Christian Frank



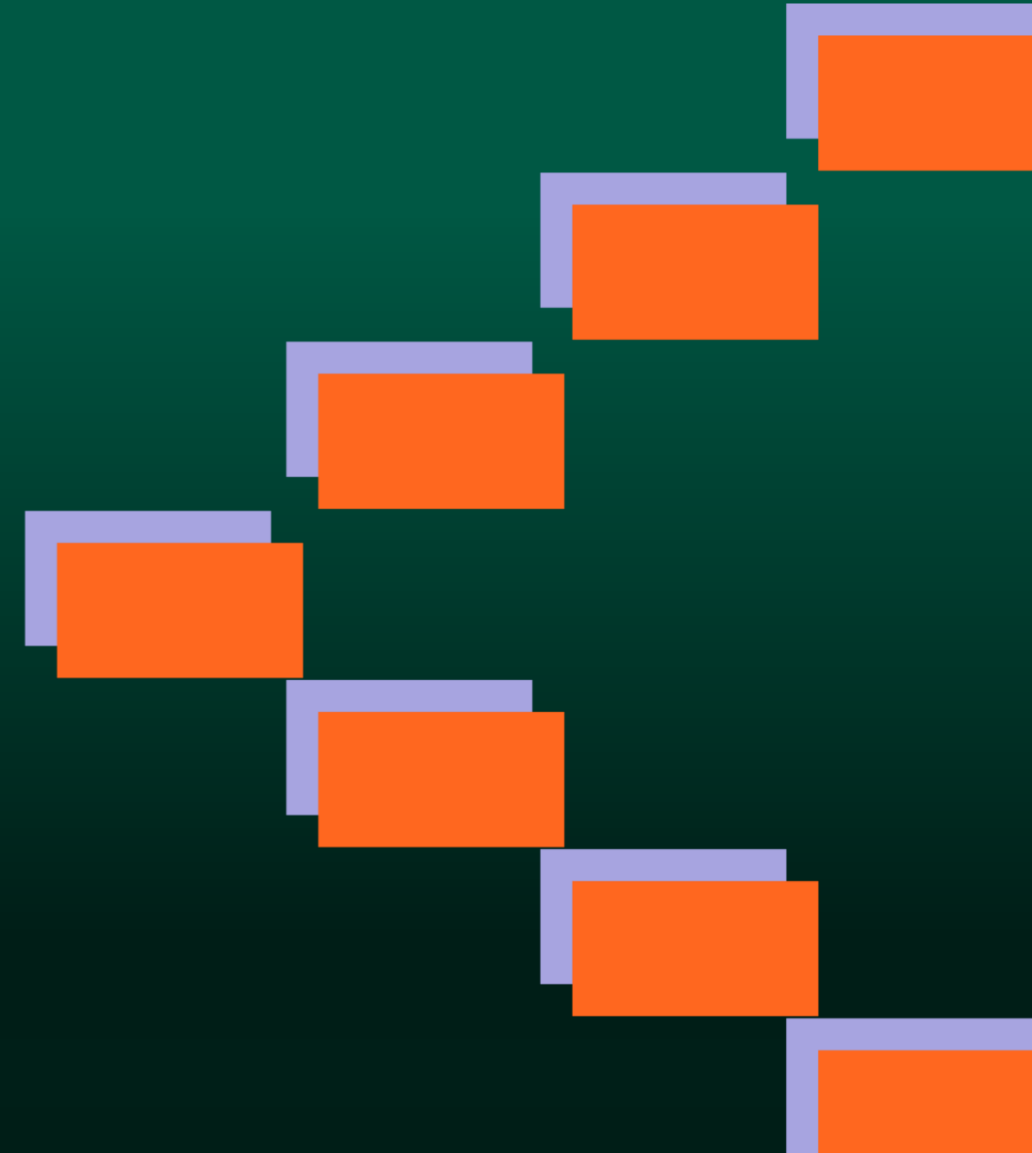
Agenda

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➤ How did we end up here?

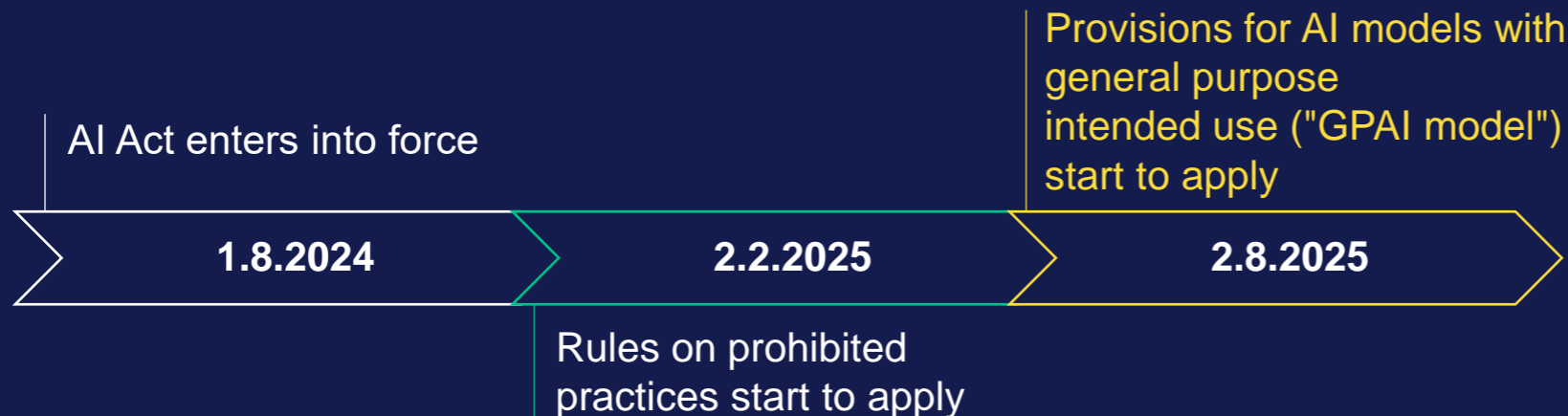
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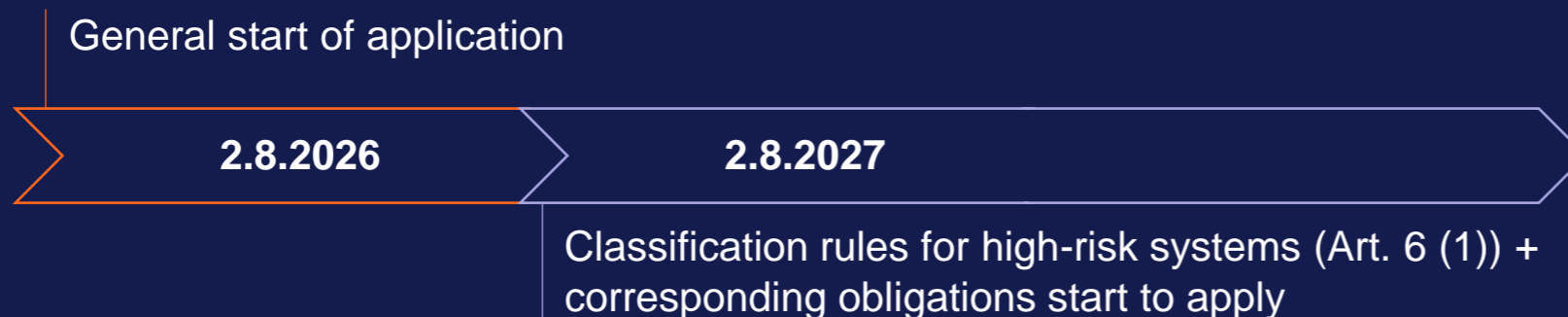
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AI Act (Regulation (EU) 2024/1689 of 13 June 2024, Official Journal 12 July 2024)

Entry into force and date of application – Art. 113



Prior to this, Codes of practice shall be ready by 2 May 2025 (Art. 56 (9))



➤ How did we end up here?

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AI Act (Regulation (EU) 2024/1689 of 13 June 2024, Official Journal 12 July 2024)

Chapter V GPAI models

Art. 51 Classification with/without "systemic risk"

Art. 52 Procedure

Art. 53 Obligations for providers of GPAI models

Art. 54 Authorised representatives of the providers of LPAI models

Art. 55 Obligations for providers of LPAI models with systemic risk

Art. 56 Codes of practice

Art. 96 Guidelines Commission



Art. 56 – Codes of practice – what should be included?

(2) The AI Office and AI Board shall aim to ensure *that codes of practice cover at least the obligations of Art. 53 and 55, including the following aspects:*

a) Means to ensure that the information referred to in Art. 53(1), points (a) and (b), is kept up to date in light of market and technological developments;

b) Adequate level of detail for the summary about the content used for training;

c) identification of the type and nature of the systemic risks at Union level, including their sources, where appropriate;

d) measures, procedures + modalities for assessment + management of systemic risks (incl. documentation)

- proportionate to risks,
- takes into account severity, probability +
- specific challenges in tackling them ... along the AI value chain.

➤ Art. 96 – Guidelines – what should be included?

(1) The Commission shall develop guidelines on the practical implementation of this Regulation, and in particular on:

a) the application of the requirements and obligations referred to in Art. 8 to 15 and in Art. 25;

b) the prohibited practices referred to in Art. 5;

c) the practical implementation of the provisions related to substantial modification;

d) the practical implementation of transparency obligations laid down in Art. 50;

e) detailed information on the relationship of this Regulation with the Union harmonisation legislation listed in Annex I, as well as with other relevant Union law, including as regards consistency in their enforcement;

f) the application of the definition of an AI system as set out in Art. 3, point (1).

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4.2.2025



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6.2.2025



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f) the application of the definition of an AI system as set out in Art. 3, point (1).

6.2.2025



- but without delimitation AI system vs GPAI model – point III para 64

➤ Art. 56 – Timeline

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**Codes of practice kick-off event
with 1,000 participants**

Four working groups

- Transparency & copyright
- Risk identification & assessment
incl. evaluation
- Technical risk mitigation
- Internal risk management &
governance of GPAI providers

Publication of 3rd draft

AI Board meeting (Art. 65)

Joint closing
event

30.9.2024

14.11./
19.12.2024

11.3.2025

22.4.2025

30.6.2025

2.7.2025

3.7.2025

Publication of 1st
/ 2nd draft

AI Office starts consultation /
participation procedure Art. 56 (3)
-> contributions to the clarification
of regulations

GPAI provider
workshop

> Art. 56 – Timeline

**Publication of guidelines
and codes of practice in
the coming days?**

➤ Art. 56 – Codes of practice for sailing instructions

AI Office and AI Board

- **"shall aim to ensure** that the codes of practice clearly set out their specific objectives and contain commitments or measures, including key performance indicators as appropriate, to ensure the achievement of those objectives, and that they take due account of the needs and interests of all interested parties, including affected persons (para. 4)
- shall assess whether the codes of practice cover the obligations provided for in Articles 53 and 55, and shall regularly monitor and evaluate the achievement of their objectives. They shall publish their assessment of the adequacy of the codes of practice (para. 6)"

AI Office

- **may invite** all providers of general-purpose AI models, as well as relevant national competent authorities, to participate in the drawing-up of codes of practice. Civil society organisations, industry, academia and other relevant stakeholders, such as downstream providers and independent experts, may support the process (para. 3)

If, by 2 August 2025, a code of practice cannot be finalised, or if the AI Office deems it is not adequate following its assessment under paragraph 6 of this Article, the Commission may provide, by means of implementing acts, common rules for the implementation of the obligations provided for in Articles 53 and 55, including the issues set out in paragraph 2 of this Article.

➤ Art. 53 – general provider obligations

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➔ To AI Office

a) Draw up technical documentation of the model + update information (training and testing procedure + results of its evaluation)

➔ AI system provider

b) Information/documentation to enable them to have a good understanding of capabilities + limitations of the GPAI model and fulfil their obligations under this Regulation

EXC to a) / b): OS-GPAI models (except system. risk) - para. 2

➔ Copyright

c) Put in place a policy for copyright compliance and in particular to identify + comply with a reservation of rights asserted pursuant to Art. 4 (3) of Directive (EU) 2019/790, including through state-of-the-art technologies;

d) Draw up + publish a sufficiently detailed summary of the content used for training of the GPAI model according to a template provided by the AI-Office

Providers of GPAI models may initially rely on codes of practice within the meaning of Art. 56 to demonstrate compliance with the obligations under Art. 53 (1). (para. 4)

Art. 55 – Obligations of systemic risk providers

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a) Perform model evaluation using standardised protocols and tools that reflect the state of the art, including conducting and documenting adversarial tests on the model to identify and mitigate systemic risks;

b) Assess + mitigate potential systemic risks at Union level, incl. sources that may stem from the development, placing on the market or use of GPAI models with systemic risk;

c) Keep track of, document relevant information about serious incidents and possible corrective measures + report them to AI Office + competent national authorities without undue delay;

d) Ensure adequate level of cybersecurity protection for GPAI model with systemic risk and the physical infrastructure of the model.

Providers of GPAI models may initially rely on codes of practice within the meaning of Art. 56 to demonstrate compliance with the obligations under Art. 53 (1). (para. 4)

➤ Protocol – Guideline topics

Main points of criticism from stakeholders

1. Threshold for GPAI models

- **Providers, industry and public:** Previous threshold of 10^{22} FLOP too *low*:
 - Proposal: Increase to 10^{23} FLOP, which corresponds to typical current models with approx. 1 billion parameters (see recital 98)
- **Copyright holders:** Previous threshold of 10^{22} FLOP too *high*, additional criteria also necessary.

2. Open source exemption and monetisation

- **Providers, industry and academia want clarification:**
 - When does the open source exception apply?
 - What counts as monetisation?
- **Stakeholder proposals:**
 - Clarification of requirements for exception.
 - Specific examples of monetisation in the context of GPAI.

3. Role of downstream modifiers

- **Downstream modifiers** (fine-tuning, optimisation efficiency, system integration) do not want to be qualified as providers within the meaning of the AI-Act
- **Proposal:** Only providers if modifications require $> 1/3$ of the original training compute.
- **Objective:** Most modifiers, especially smaller ones, shall not qualify as provider

➤ Protocol – Guideline topics

Main points of criticism from stakeholders

1. Threshold for GPAI models

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- **Copyright holders:**
Previous threshold of 10^{22} FLOP too *high*, additional criteria also necessary.

Threshold value is NOT in the AI-Act itself (Recital 98 dances around)

AI Office 22.4.2025 – Conditions for sufficient generality and capabilities, point 3.1.1:

- Model that can generate text/images + training compute > 1022 FLOP: Rebuttable presumption = GPAI model;
- Possible if no text/image generation, if comparably broad level of generality and capabilities
- < 1022 FLOP: Lack of sufficient generality and capabilities rebuttably presumed

■ Stakeholder proposals:

- Clarification of requirements for exception.
- Specific examples of monetisation in the context of GPAI.

modifications require > 1/3 of the original training compute.

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➤ Protocol – Guideline topics

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 - Specific examples of monetisation in the context of GPAI.

AI Office section 3.3.2: Three criteria for OS exception

1. GPAI model is provided under a free OS licence that allows access, use, modification and distribution: explicit reference to Recitals 102, 103.
2. Parameters, incl. weights, information on model architecture and model usage, must be made publicly available
3. No systemic risk

- **Proposal:** Only providers if modifications require > 1/3 of the original training compute.

- **Objective:** Most modifiers, especially smaller ones, shall not qualify as provider

➤ Protocol – Guideline topics

Main points of criticism from stakeholders

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- **Objective:** Most modifiers, especially smaller ones, shall not qualify as provider

AI Office 3.2.2 Downstream modifiers as GPAI model provider:

A develops GPAI model, B modifies and brings it to market:

- **A** = provider orig. model, must fulfil obligations GPAI provider,
- **B** = provider modif. model, must fulfil obligations of GPAI provider, unless modification removes GP nature

Rec. 97, 109 + only significant changes trigger qualification

- > threshold value:

Presumption DM = GPAI model provider, if training compute used for modification > 1/3 threshold training compute for orig. model

Similar approach GPAI model with system. Risk

- **Simple modification change:** > 1/3
- **Risk-increasing modification:** \sum Threshold training compute („TTC“) initial creation + TTC modification > Art. 51(2) TTC



Protocol Transparency Obligations – Codes of practice

1. Draw up & update model documentation

- Draw up and updating model documentation
- Use of the official form template
- Obligation to retain for 10 years after withdrawal from market
- Traceable, versioned, verifiable

2. Providing relevant information

- Contact point for authorities and downstream providers
- Provision on request (AI Office, national authorities)
- Disclosure of relevant additional information
- Maintain IP protection and confidentiality (in accordance with Art. 78 AI Act)

3. Quality, integrity & security of information

- Ensuring the quality and consistency of information
- Protection against unintentional changes (e.g. through versioning)
- Orientation towards established security tech standards & protocols

Model Documentation Form

This Form includes all the information to be documented as part of Measure 1.1. Crosses on the right indicate whether the information documented is intended for the AI Office (AIO), national competent authorities (NCAs) or downstream providers (DPs), namely providers of AI systems who intend to integrate the general-purpose AI model into their AI systems. Whilst information intended for DPs should be made available to them



Protocol Transparency Obligations – Codes of practice

1. Draw up & update model documentation

2. Providing relevant information

- Contact point for authorities and

3. Quality, integrity & security of information

Main Points of stakeholder feedback addressed and what we preserved

Model documentation form	Completion of model documentation form now optional as long as the relevant information is suitably documented somewhere.
Information to downstream providers	Clarification provided regarding additional information downstream providers may request in accordance with Art. 53(1)(b).
Safeguarding of confidential information	Code now reflects all AI Act provisions on safeguarding of trade secrets and confidential information
Alignment with training data template	Categories training data provenance aligned with forthcoming training data summary template.
Changes to items	Changes to "model dependencies", "methods of distribution", "Licences" to ensure that requested information fulfils its purpose
Energy consumption	If energy consumption during training cannot be estimated, providers may indicate this – with an explanation of what information is missing to enable estimation

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Protocol Obligations Copyright – Codes of practice

Draw-up & implement policy

- Policy with all commitments
- Assign internal responsibilities
- Publication of a summary recommended

For web crawling: Only crawl legally accessible content

- No circumvention of technical protection measures (paywalls etc.)
- Reasonable efforts ("RE") to exclude "piracy domains"

Observe reservations of rights during web crawling

- Observance of robots.txt (RFC 9309), "best efforts" for other protocols
- Other reservation of rights expressions unaffected
- Publication of information on crawlers (RE) for publication of, search engine

If no own web crawling:

- Check for legally compliant crawling by third parties
- No obligation to perform individual rights checks

Mitigate risk of infringing outputs

- RE against model "memorisation" + repeatedly producing copyrighted content
- Prohibition in GTC
- Does not apply to open source models

Enable lodging of rights holder complaints

- Contact point
- Online complaint system
- Refusal possible in case of obviously unfounded / excessive complaints



Protocol Obligations Copyright – Codes of practice

Draw-up & implement policy	For web crawling: Only crawl legally accessible content	Observe reservations of rights during web crawling
Main Points of stakeholder feedback addressed and what we preserved		
Interplay Code vs Copyright law	Further clarification on the interplay of Code with EU copyright law; explicit reference to basic principles of EU copyright law	
Clarifying proportionality to size provider	Preamble clarifies that compliance with best-effort obligations should be commensurate and proportionate to the size of the provider	
Address technical & legal feasibility	Features of a future IETF protocol on robots.txt Focus on "memorisation" in the measure of output infringement re-considered Measures for third party data set to be re-considered	
Strengthen commitments	Strengthen certain commitments to align with law Clarify follow-up on complaints from rightsholders	
by third parties ▪ No obligation to perform individual rights checks	repeatedly producing copyrighted content ▪ Prohibition in GTC ▪ Does not apply to open source models	▪ Contact point ▪ Online complaint system ▪ Refusal possible in case of obviously unfounded / excessive complaints

Protocol GPAI with systemic risk – Codes of practice

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(1) Safety and Security Framework

1. **Safety and security governance framework**
Establishment of a structured governance framework for safety processes throughout the entire life cycle.
2. **Definition of risk tiers**
Definition of different risk levels (tiers) for systematic categorisation.
3. **Risk forecasting**
Forecasting future developments with regard to security-relevant risks on the basis of current research.

(2) Assessment of systemic risks

4. **Lifecycle risk assessment**
Carrying out a risk analysis across the entire model lifecycle.
5. **Capability discovery**
Analysis and documentation of emergent or particularly powerful capabilities.
6. **Risk monitoring**
Continuous monitoring of possible security incidents, misuse and unintended effects.
7. **Incident reporting**
Establishment of a process for internal and, if necessary, external reporting of security-related incidents.

Protocol GPAI with systemic risk – Codes of practice

(3) Mitigation of systemic risks

8. **Red-Teaming**
Internal and external red-teaming measures to identify vulnerabilities.
9. **Third party testing & audits**
Independent testing of security-relevant functions.
10. **Use prevention measures**
Use of technical and organisational measures to prevent misuse (e.g. API limits).
11. **Alignment techniques**
Use of techniques such as reinforcement learning from human feedback (RLHF) to control model behaviour.
12. **Release practices**
Risk-appropriate release (e.g. staggered releases, closed vs. open).
13. **Emergency pause & withdrawal**
Possibility of immediate deactivation or withdrawal in the event of serious incidents.

(4) Model Report & Documentation

14. **Safety Disclosures**
Disclosure of safety-relevant information to the AI Office, authorities and, if applicable, the public.
15. **Risk Documentation**
Structured documentation of all safety-related assessments and decisions.
16. **Risk Management Record Keeping**
Obligation for long-term archiving of security documentation and audit trails.

Protocol GPAI with systemic risk – Codes of practice

Main Points of stakeholder feedback addressed and what we preserved

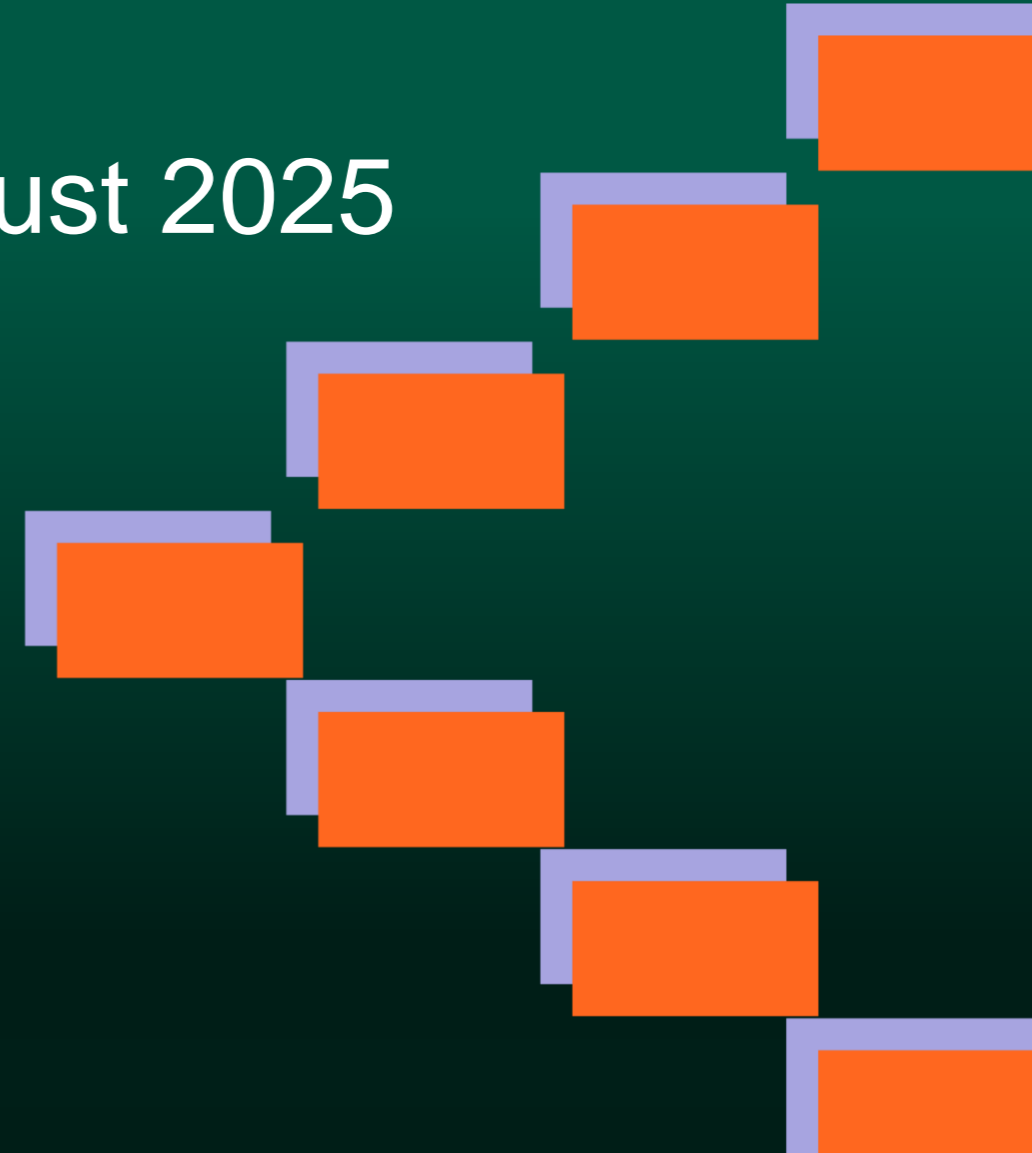
Risk Assessment process	Clarified and streamlined the risk assessment process
Risk taxonomy	Open-ended risk identification mandatory
Information on evaluation methodologies	Required more information on evaluation methodologies so that AI Office can independently assess evaluation quality
Number of commitments	Editorially streamlined and simplified to 10 while preserving content
Model report	Simplification of the model report, focus on key information
Safety and security framework	Strong framework, in line with the current state of the art, streamlined for clarity
Security	Shift to outcome-orientated framing for security risk mitigation objectives
References other standards	Removed; code now self-contained
Reporting requirements	Adjusted in light of broader model definition; reporting requirements reduced, information edited
External evaluations	Commitment to independent external evaluation during risk assessment under certain circumstances
Whistle blower protection	Only indicator of healthy risk culture
Public transparency	Removed as AI Act does not require public transparency
Systemic risk responsibility allocation	Non-EU standards have been removed

Conclusion

Result:

Guidelines will come before 2 August 2025

Code of practice will be published
before 2 August 2025



Speaker



Dr Christian Frank

Partner, Taylor Wessing



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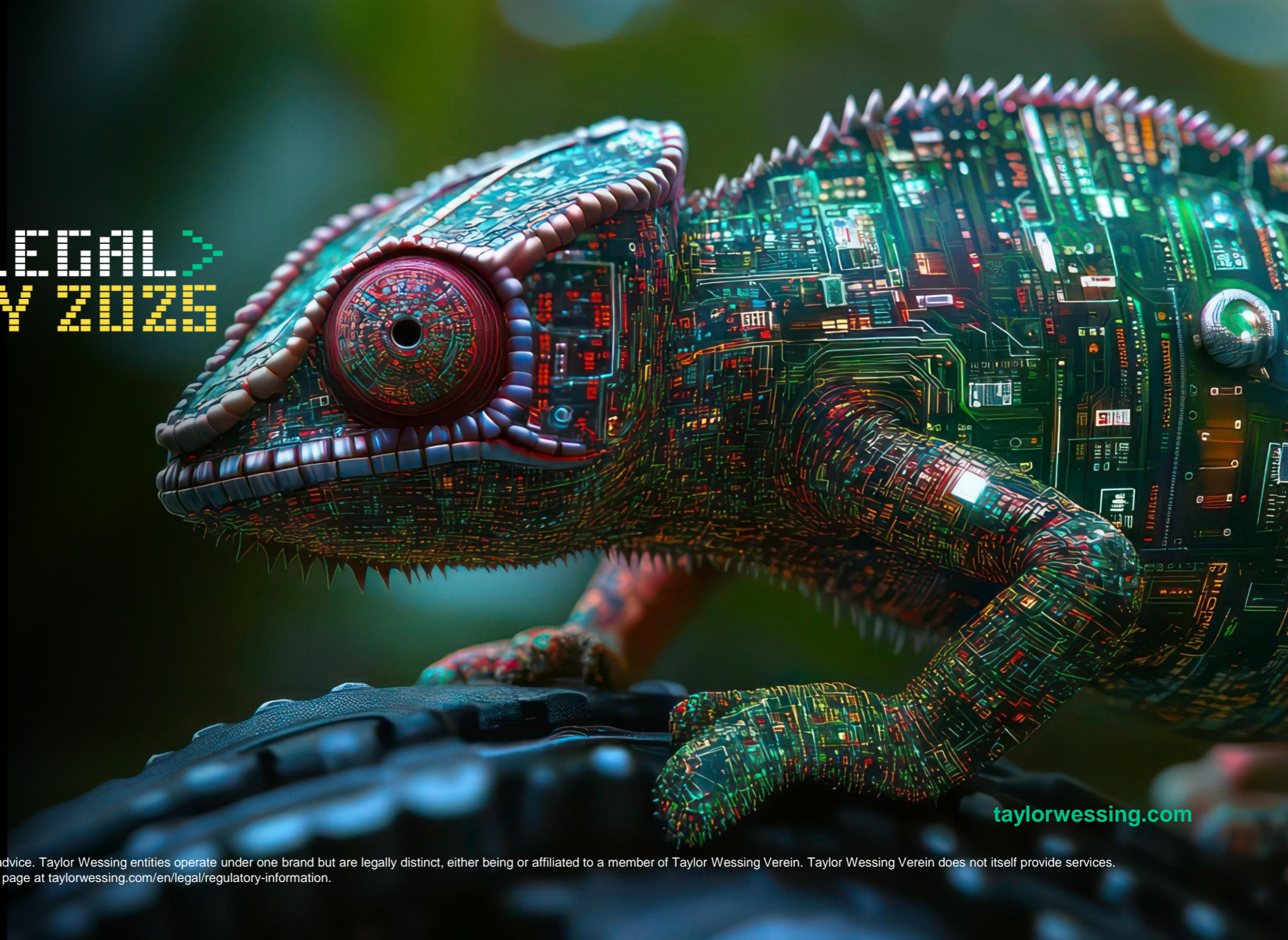
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