HOW IS YOUR COMPANY INCORPORATING AI?

While traditional artificial intelligence ("AI") has been used by the financial services industry for years, the use of generative AI has become a hot topic. Generative AI is a newer form of AI that has the ability to produce original content, including text, images or other media. Many companies utilize and implement AI, both traditional and generative, in their business practices, including financial services and payment services companies like Stripe, Block (formerly known as Square), Brex, Klarna and the Commonwealth Bank of Australia.

Many Use Cases

Many companies are implementing ChatGPT to streamline problem solving in customer service departments both to assist consumers directly through their websites and to help employees assist consumers. GPT-4, a version of ChatGPT, is even being used to assist in uncovering fraudulent schemes in payment processing servicer.

Block has invested in 10 different forms of generative AI, including a form of generative AI that produces menus for restaurants, studio backgrounds for clients and tailored marketing. Klarna has introduced generative AI to assist consumers by providing tailored recommendations based on past buying history. The Commonwealth Bank of Australia has introduced bots called "digital customers" to test its products. The bots will be trained to interpret the patterns of usage from human users to create these "digital customers" that will provide valuable insight into how the bank's customers will use and respond to new products.

Visa and Amazon have announced multi-billion-dollar investments in companies that build generative AI over the past several years. Visa recently released an AI Advisory Practice within its consulting business to assist customers with understanding the risks associated with implementing AI into business models, particularly within the financial services industry.

Increased Scrutiny

With increased development and the implementation of AI technology comes increased scrutiny by regulators. President Biden released an executive order in late October addressing AI usage, and misusage, in the financial services industry with a focus on data security, privacy and equity and civil rights. The executive order will require certain AI developers to implement safety testing and notify the government when they train their systems and release results of the testing and training. The primary target of this requirement is companies that would pose "a serious risk to national security, national economic security or national public health and safety." Additional recommendations include the labeling of AI-produced content to reduce the spread of disinformation and a call for increased transparency in the algorithms used in AI models.

The executive order also addresses AI and lending bias by instructing the Consumer Financial Protection Bureau ("CFPB") and the Federal Housing Finance Agency to develop guidance on discrimination in tenant screening procedures. While the executive order can only restrict AI usage in limited circumstances, like government contracts, new laws will be needed to reach AI usage in the private sector.

Last year the White House introduced a "Blueprint for an AI Bill of Rights" identifying several principals to guide the development and usage of AI. The Blueprint addressed 5 primary areas of focus: (i) safe and effective systems through consultation and testing; (ii) implementing protections to reduce algorithmic discrimination based on protected characteristics; (iii) data privacy and the importance of consent to the use of data to the greatest extent possible; (iv) disclosure to the general public on how automated systems are used; and (v) providing alternatives to automated systems for consumers who wish to opt-out.

Most recently, the Federal Trade Commission ("FTC") submitted a comment to the U.S. Copyright Office flagging issues related to the usage of AI. The FTC highlights the need to understand the risks associated with AI including consumer privacy, discrimination and biases, and "turbocharging" deceptive practices. Of particular important for copyright-related issues is the field of generative AI. As the generative AI often uses pieces of original works that may be subject to copyright laws to produce its new "original" AI content by blending pieces it has been trained to take patterns and data from.

Considering the speed with which AI is evolving and being implemented into the financial services industry, sound consumer protection and privacy practices are needed. The newest wave of generative AI in particular raises important issues. We are happy to discuss the myriad considerations that should be addressed. We will

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continue to monitor changes in the field. ❑

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