



ASIC
Australian Securities &
Investments Commission

Committee	Senate Committee
Inquiry	Select Committee on Adopting Artificial Intelligence (AI)
Question No.	002
Reference	21 May 2024
Committee member	Senator David Shoebridge

Questions

Senator SHOEBRIDGE: Thanks all for your work and your ongoing engagement with the issue. I want to have a look at the way AI enables well-established markets and disrupts well-established markets, and the insurance market is one you raised in your submission. AI is enabling some insurers to do that far more granular risk assessment—basically deconstruct the pool—and in doing that potentially undermining one of the chief benefits of an insurance model—

Mr Longo: Just to spread the risk.

Senator SHOEBRIDGE: To spread the risk, to pool the risk. It's not unlawful. It's probably the profitable way of pricing your insurance products. But it undermines the whole market, in many ways—the social utility of insurance. Do you want to describe how you're responding to that challenge?

Mr Longo: I have to tell you, that's a really difficult question; I'm not fully briefed today to deal with it. I'll ask Calissa whether she has a view about that, or Graham. I know that topic is of interest to APRA as well. We jointly regulate insurance. And there are some very fundamental public policy issues lurking there—for example, natural disasters, floods. We're going into a period now where a number of areas in Australia are becoming uninsurable— or insurable at an unaffordable cost. I think that's related to your question. But I'll have to take that on notice.

Senator SHOEBRIDGE: But the scale of decision-making, the ability to drill down to an individual customer— it actually undermines the whole market model.

Mr Longo: Well, it's a question of transparency, in the end. I think there's a public interest in risks being properly priced. It's a classic example of harms and benefits.

Senator SHOEBRIDGE: But there's a public interest in sharing the burden across society.

Mr Longo: Absolutely, and I think the technology can have the effect that you're describing, but it can also have the effect of enabling the insurance company to better price the risk. But I take your point; there is the potential for that to happen. **Senator SHOEBRIDGE:** If you have any further information on that and what the responses to that are, particularly the AI risk in that space, you can provide it on notice.

Ms Aldridge: As you said, it's a very challenging issue. Licensees also need to comply with the obligation to operate efficiently, honestly and fairly, and that does come into it, but ultimately, they've also got to manage their risk, and there's also an argument there that some consumers would prefer to pay the premiums based on the risk that they provide. So I think we do need to take it on notice to think about further.

Answers

ASIC is considering the use of Artificial Intelligence (AI) by licensed financial service providers as a high and important priority. We recognise that AI may have widespread impacts on the way that financial services are provided to consumers. We are considering how financial services licensees are utilising AI, as part of our supervisory work.

Our interest will always be the safety and integrity of the financial ecosystem – we will be involved wherever new technology has a detrimental impact on good consumer outcomes and market integrity within the financial ecosystem. Regulators have a particular role in ensuring AI systems are sufficiently transparent and explainable.

We expect licensed financial service providers to have the appropriate governance and controls in place to implement new technologies including AI, and to comply with their relevant obligations.

The current laws that ASIC administers, such as directors' duties and general licensing obligations, are technology neutral. This means that they apply equally to outcomes delivered by AI and non-AI systems and processes and that those laws continue to protect consumers and investors.

Regardless of the technology being used by insurers to determine pricing and risk of their insurance products, they need to have regard to:

- their general obligations of Australian financial services (AFS) licensees to do all things necessary to ensure that financial services covered by the licence are provided efficiently, honestly and fairly;
- the consumer protection provisions of the ASIC Act, including prohibitions against false or misleading representations or misleading or deceptive conduct, and
- the statutory obligation to act with utmost good faith contained in s13 of the Insurance Contracts Act.

In addition to our general supervisory work, we are reviewing the use of AI and advanced data analytics in a sample of entities in banking, credit, insurance, and financial advice, and testing how licensees are identifying and mitigating potential consumer harms.

APRA is also considering the use of AI by its regulated population and APRA Member Therese McCarthy Hockey set out APRA's approach at the AFIA Risk Summit 2024 ([Taking flight: navigating the new challenges posed by generative artificial intelligence](#)).