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Navigating regulatory waters  
in the age of AI

Center for  
**Regulatory  
Strategy**  
**US**

# Key considerations for investment advisers and broker-dealers

## Background

The financial industry is experiencing a significant paradigm shift marked by the growing integration of artificial intelligence (AI), predictive data analytics (PDA), and similar technologies in customer interactions. As these advanced tools become increasingly prevalent, concerns about their transparency and potential misuse have captured the attention of regulators and federal agencies, including the Securities and Exchange Commission (SEC), the Colorado Division of Insurance (CDOI), and the National Institute of Standards and Technology (NIST), among others.

In response to this transformative landscape, the SEC proposed rules on July 26, 2023 aimed at regulating investment advisers and broker-dealers (herein referred to as “firms”) for conflicts of interest associated with the use of AI and PDA technologies in customer interactions.<sup>1</sup> The proposed rules would require firms to implement governance and testing programs for these technologies as well as written policies and procedures for, among other things, evaluating their use in investor interactions and eliminating associated conflicts of interest or neutralizing their impacts. Further, in its 2024 Examination Priorities the SEC’s Division of Examinations stated that “The Division remains focused on certain services, including automated investment tools, artificial intelligence, and trading algorithms or platforms, and the risks associated with the use of emerging technologies and alternative sources of data.”<sup>2</sup>

In addition to the SEC, other state and federal regulators and agencies have also laid out guidance and regulation for the establishment of AI governance and risk management.<sup>3</sup> Considering the SEC’s proposed rules and focus on AI, PDA, and similar technologies as well as the guidance and proposed and final rules from others, firms should consider taking action to address the regulatory scrutiny.



## Actions for firms to consider

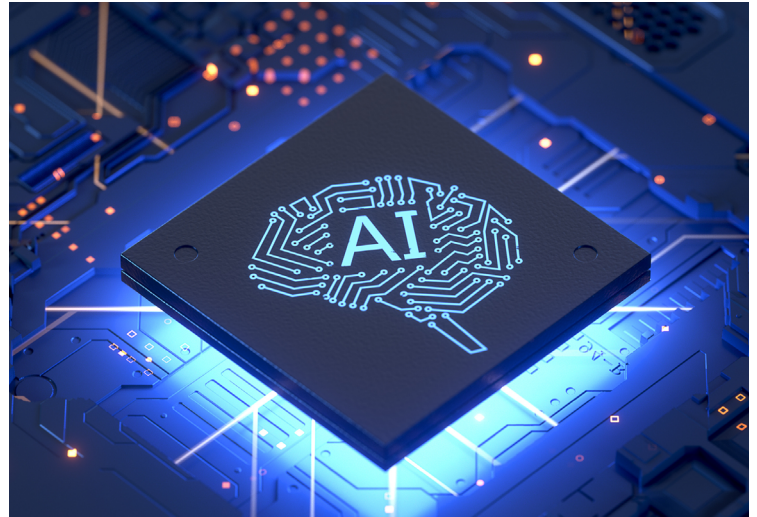
**Despite the high degree of regulatory change and uncertainty around these technologies, there are distinct areas where firms may want to consider proactively gearing up for increased regulation. Here are some specific actions that firms may want to consider as part of these preparation efforts.**

1. **Establish or enhance governance framework: Firms should consider proactively establishing or updating their AI governance by bringing together a cross-functional team of stakeholders from areas such as the business, supervision, compliance, technology, and risk (inclusive of model risk management stakeholders) to:**
  - a. Establish the definition of AI and PDA for the firm as well as the firm's strategy for the use of the technologies, particularly in interactions with customers.
  - b. Define policies for evaluating and approving the use of new tools that utilize AI and PDA, including their use in client interactions.
  - c. Establish an oversight committee to monitor compliance; confirm that technologies are being used as intended; and stay abreast of the changing regulatory landscape and technological advancements.
2. **Conduct a technology inventory assessment: Firms should consider identifying and evaluating current and potential future uses of AI and PDA technologies in customer interactions by:**
  - a. Evaluating the current client servicing models and identifying client interaction points where AI or PDA technologies are used, such as AI-driven platforms, chatbots, robo-advisors, and tools used by financial advisers to identify investment recommendations.
  - b. Evaluating current-state policies, procedures, and controls for technologies used in client interactions, and identifying where there may be gaps.
  - c. Consolidating inventories of identified technologies, and developing processes for the regular review and maintenance of the inventory.
  - d. Evaluating scalability of existing AI and related technology tools to accommodate potential growth in investor interactions.
3. **Integrate AI and PDA into conflicts of interest program: Firms should consider evaluating their conflicts of interest program and enhancing it, as needed, for conflicts associated with the use of AI and PDA. These may include:**
  - a. Reviewing current-state policies and procedures for the identification, management, disclosure, mitigation, and elimination of conflicts, and enhancing them, as needed, to account for conflicts associated with the use of AI and PDA.
  - b. Developing processes for business, technology, risk, and compliance stakeholders to work together to identify and evaluate potential conflicts prior to the introduction of new tools that leverage AI and PDA. Note that, this would include processes to understand how the technology works, how the business intends to use it, and the conflicts associated with the proposed use.
  - c. Developing procedures for the regular testing of AI, PDA, and similar technologies to evaluate if usage and related conflicts may be evolving over time as well as the effectiveness of measures taken to mitigate or eliminate identified conflicts. Note that firms may want to integrate such testing into their broader model risk management programs.
  - d. Enhancing training programs as well as escalation and reporting procedures, so that professionals understand both the potential conflicts associated with AI and PDA as well as their compliance responsibilities and role in helping to identify potential conflicts.

### Concluding thoughts

As firms increasingly embrace and regulators increasingly scrutinize AI, PDA, and similar technologies, firms should consider taking a proactive approach to address the associated regulatory and compliance risk. Establishing a governance framework, inventorying the current usage of these technologies and enhancing conflicts of interest programs are action steps that firms can take to help manage the risk and navigate the evolving technology and regulatory landscape.

For additional perspective on the above or for more information, please reach out to a member of our team set out below. And for more information about our regulatory remediation practice generally, please [visit the practice's web site](#).





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# End notes

<sup>1</sup> US Securities and Exchange Commission (SEC), "[Conflicts of Interest Associated with the Use of Predictive Data Analytics by Broker-Dealers and Investment Advisers](#)," 17 CFR Parts 240 and 275, July 26, 2023.

<sup>2</sup> SEC, "[2024 Examination Priorities Report](#)," October 13, 2023.

<sup>3</sup> Colorado Department of Regulatory Agencies, "[Notice of Adoption – New Regulation 10-1-1 Governance and Risk Management Framework Requirements for Life Insurers' Use of External Consumer Data and Information Sources, Algorithms, and Predictive Models](#)," September 21, 2023; National Institute of Standards and Technology (NIST), "[Artificial Intelligence Risk Management Framework \(AI RMF 1.0\)](#)," January 2023; The White House, "[Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence](#)," October 30, 2023; California Legislature, "[AB-331 Automated decision tools](#)," January 30, 2023.

# Center for Regulatory Strategy US

## About the Center

The Deloitte Center for Regulatory Strategy provides valuable insight to help organizations in the financial services industry keep abreast of emerging regulatory and compliance requirements, regulatory implementation leading practices, and other regulatory trends. Home to a team of experienced executives, former regulators, and Deloitte professionals with extensive experience solving complex regulatory issues, the Center exists to bring relevant information and specialized perspectives to our clients through a range of media, including thought leadership, research, forums, webcasts, and events.

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