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Revised Draft of Colorado Artificial Intelligence (AI) Regulation:

Summary of Governance and Risk Management Framework (GRMF) Requirements for Life Insurance companies



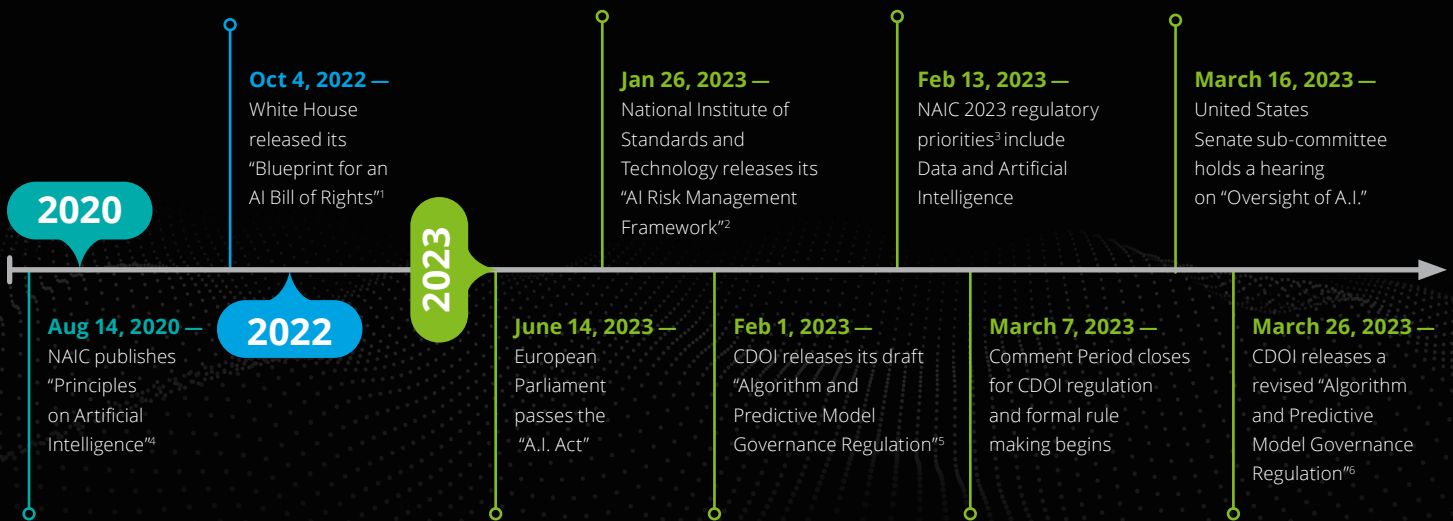
Overview of Colorado Division of Insurance’s (CDOI) revised AI Regulation draft

The AI regulatory landscape continues to mature as government agencies refine and build upon previous guidance designed to manage AI risk, to reasonably ensure equality and transparency, and to provide trust in automated systems.

This is evidenced by recent publications including the White House’s Blueprint for an AI Bill of Rights¹, issued in October 2022, and the

Artificial Intelligence Risk Management Framework², issued by National Institute of Standards and Technology in January 2023. Additionally, the National Association of Insurance Commissioners (NAIC) continues to prioritize responsible data and AI use by insurers as reflected in its 2023 regulatory priorities³.

Figure 1 — Timeline



Continuing down the path of making the governance requirements more tangible, the CDOI issued the revised draft of its AI regulation on May 26, 2023 (initial draft issued on February 1, 2023) following active engagement with industry stakeholders. This intends to establish requirements for a life insurance company’s internal GRMF. The regulation is designed to reasonably ensure that life insurers’ use of external consumer data and information sources (ECDIS), algorithms, and predictive models (i.e., AI models) do not result in unfairly discriminatory insurance practices with respect to race. This is believed to be the first such regulation on AI targeting insurers, and specifically life insurance. Based on recent regulatory trends, there is a possibility that other states may follow suit and/or the scope of the regulation may be expanded to other types of insurance (e.g., auto, property).



Requirements per the 'revised' draft of CDOI's AI regulation include —

AI Governance and Risk Management Framework (GRMF)

Insurers dealing with life insurance are responsible to ensure that the following requirements are met, including instances where third-party vendors are engaged:

01. **AI governing principles** ^(5A1) to ensure that use of ECDIS and AI models using ECDIS do not lead to unfair discrimination.
02. **Board or Board Committee & senior management oversight** ^(5A2&3) of GRMF, and for setting and monitoring the overall strategy on the use of ECDIS and AI models and provide direction for AI governance.
03. **Cross-functional governance group** ^(5A4) with representatives from key functional areas.
04. **Written policies and processes** ^(5A5) including assigned roles and responsibilities to ensure that ECDIS and AI models are documented, tested, and validated.
05. **Processes and protocols to address consumer complaints and inquiries** ^(5A6) about use of ECDIS and AI models.
06. **A rubric for assessing and prioritizing risks** ^(5A7) associated with the use of ECDIS and AI models, including customer impact.
07. **An up-to-date inventory of ECDIS and AI models** ^(5A8) in use, including version control, detailed descriptions, purpose, problem their use is intended to solve, potential risks, and safeguards.
08. **Documented explanation of changes to the inventory** ^(5A9) as well as rational for the change.
09. **Documented description of testing to detect unfair discrimination** ^(5A10) from use of ECDIS and AI models and steps taken to address disproportionate negative outcomes.
10. **Documented description of ongoing monitoring** ^(5A11) of ECDIS and AI models and steps taken to address disproportionate negative outcomes.
11. **Documented description of process of selecting external resources** ^(5A12) including third-party vendors
12. **Regular reviews of the governance structure and risk management framework** ^(5A13) to make sure that required documentation's accuracy and relevance.

Reporting (Once the final rule of the draft AI regulation goes into effect)

Insurers **using ECDIS and AI models using ECDIS**



- In **six months** ^(6A) following the effective date of this regulation — A report summarizing progress toward complying with GRMF, areas under development, challenges encountered and expected completion date.
- In **one year** following effective date of this regulation and **annually thereafter** ^(6B) — A report summarizing compliance with GRMF requirements, along with the title of each individual responsible for ensuring compliance (for each requirement). This report must be signed by an officer attesting to compliance with this regulation.

Insurers that **do not use ECDIS and AI models using ECDIS**



- In **one month** ^(6C) from the effective date of this regulation and **annually thereafter** ^(7D) — An attestation indicating they do not use ECDIS.

Insurers **planning to use ECDIS and/or AI models using ECDIS in the future** (not as of effective date of regulation)



- **Prior to the use** of ECDIS or AI models (6D), and **annually thereafter** ^(6D) — A report summarizing compliance with GRMF requirements, along with the title of each individual responsible for ensuring compliance (for each requirement). This report must be signed by an officer attesting to compliance with this regulation.

Key Terms

“External Consumer Data and Information Source” or “ECDIS” means, for the purposes of this regulation, a data or an information source that is used by a life insurer to supplement or supplant traditional underwriting factors or to establish lifestyle indicators that are used in insurance practices. This term includes credit scores, social media habits, purchasing habits, home ownership, educational attainment, licensures, civil judgments, court records, occupation that does not have a direct relationship to mortality, morbidity or longevity risk, and any insurance risk scores derived by the insurer or third-party from the above listed or similar data and/or information source.

Deloitte's Trustworthy AI™ Framework

At Deloitte, we recognized the importance of protections and for AI-Fueled organizations to earn trust in the AI-enabled assets and services provided to the public.

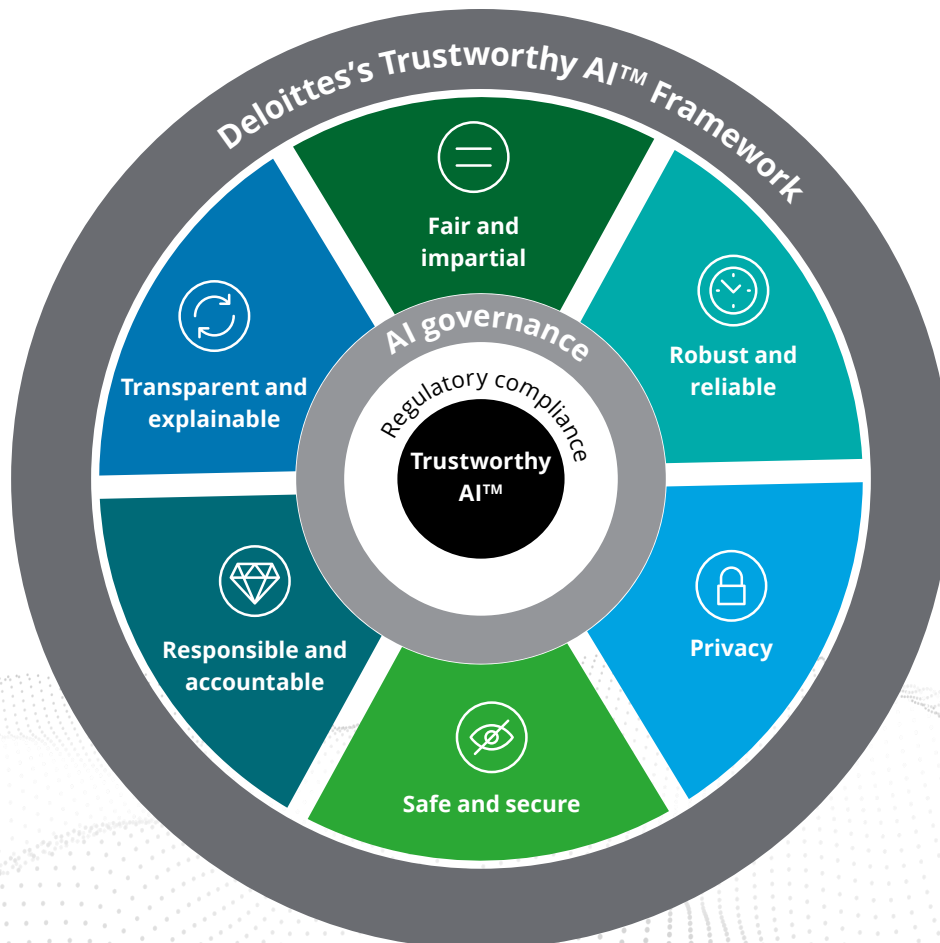
Deloitte's Trustworthy AI™ Framework (Framework) and AI Governance & Risk services help provide strategic and tactical solutions to enable organizations to continue to build and use AI-powered systems while promoting Trustworthy AI (Figure 2).

Deloitte recognizes that organizations and institutions are increasingly adopting AI and automated systems for their potential to revolutionize significant aspects of the American public's daily lives from health care, to banking, to shopping, to leisure downtime, to many more. However, these innovations can be particularly susceptible to a wide range of AI-related risks through all phases of the AI life cycle. For example, AI-based

systems may introduce or reinforce a risk of perpetuating inequity and historic bias, and enforceable regulations to protect the American public by reasonably ensuring equitable, ethical, and transparent.

AI may not only be critical but inevitable. An indication of the future AI regulatory landscape can be seen in recent proposed and enacted state and local laws governing AI in specific use cases, such as AI-based performance evaluation and hiring decisions and loan underwriting models.⁷

Figure 2 — Deloitte's Trustworthy AI™ Framework (Framework)



Understanding GRMF requirements through Deloitte’s Trustworthy AI™ Framework

Deloitte’s Trustworthy AI™ Framework (Framework) has been designed to assist insurance companies in operationalizing automated systems safely and effectively, while protecting individuals and communities and adhering to emerging regulations, such as those provided by CDOI (Figure 3).

Figure 3 — CDOI’s GRMF requirements and how they map to Deloitte’s Trustworthy AI™ Framework (Framework)

| | | Deloitte TWAI™ Framework | | | | | |
|---|--|--------------------------|-------------------|---------|---------------|---------------------------|---------------------------|
| | | Fair & Impartial | Robust & Reliable | Privacy | Safe & Secure | Responsible & Accountable | Transparent & Explainable |
| AI Governance and Risk Management Framework | Documented AI governance principals outlining unfair discrimination protections | ✓ | ✓ | | | | ✓ |
| | Board or Board Committee and Senior Management oversight + clear roles & responsibilities | | | | | ✓ | |
| | Written policies and process for creation, deployment and use of ECDIS and AI models | | | | | ✓ | ✓ |
| | AI models are safe and secure | | | | ✓ | | |
| | Process and protocol to address consumer inquiries and complaints | | | ✓ | | | ✓ |
| | A rubric for assessing and prioritizing risks | | | | | | |
| | Up to date inventory of ECDIS and AI models, with version control and rationale for changes documented | ✓ | ✓ | | ✓ | | ✓ |
| | Testing to detect unfair discrimination | ✓ | ✓ | | | | ✓ |
| | Ongoing monitoring | | | | | | |
| | Vender selection process | ✓ | | | | ✓ | ✓ |
| | Regular review of GRMF and the accuracy and relevance of associated documentation | | | | | ✓ | |
| Reporting Requirements | Report on progress | | | | | ✓ | |
| | Report on compliance | | | | | ✓ | |
| | Regular reporting | | | | | ✓ | |

The world today is experiencing significant human capacity for insight, decision making, efficiency, and innovation—all dramatically expanded by cognitive systems — during a time in which trust is paramount. The tools that assist in unleashing world changing capabilities should be trusted to act in line with human expectations for ethics and appropriateness. The full potential of AI may hinge on that confidence.

Once finalized and put into effect, the CDOI's AI Regulation will likely provide specific enforceable requirements for life insurance companies using ECDIS and AI models using ECDIS in Colorado. CDOI has leveraged high-level principles, found in places like the federal regulatory guidelines, and attempted to turn them into reporting requirements for governance, documentation, and reporting.

While it is expected to only apply to life insurance companies doing business in Colorado, the draft regulation may set the tone for industry leading practices and other regulators looking to implement similar requirements. Additionally, CDOI has also suggested similar rules may be applied to other insurance lines or other AI or algorithmic uses. We recognize that navigating AI implementation challenges can be complex, and Deloitte Risk & Financial Advisory is committed to helping our clients navigate these challenges agilely while establishing trust with stakeholders and regulators. Deloitte Risk & Financial Advisory, with our suite of AI Governance & Risk assets and services, is dedicated to assisting our clients through the changing regulatory landscape and helping clients create Trust, Equity and Transparency as they serve the American people.

Where do you start?

As we are waiting for the final regulation to be issued, below are three recommended steps that can help life insurance companies prepare to adhere to the regulatory requirements.

01

Conduct a diagnostic assessment to identify and inventory AI use cases, corresponding purpose (ECDIS and AI models in use) and existing governance & control processes

02

Develop an AI governance strategy with specific outcomes that the company needs to demonstrate compliance, along with a timeline and necessary resources

03

Train employees who work with ECDIS and AI models, to understand new regulatory requirements and identify any policy and / or procedure changes that need to be adopted



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Endnotes

- 1 [White House's Blueprint for an AI Bill of Rights](#)
- 2 [National Institute of Standards and Technology AI Risk Management Framework](#)
- 3 [NAIC 2023 Regulatory Priorities](#)
- 4 [NAIC Principles on Artificial Intelligence](#)
5. CDOI 'draft' of [Algorithm and Predictive Model Governance Regulation](#)
6. CDOI 'revised draft' of [Algorithm and Predictive Model Governance Regulation](#)
- 7 National Conference of State Legislatures [Report on Legislation Related to AI](#)



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