

A vertical image on the left side of the page showing a golden, faceted sculpture of a human head and shoulders, composed of many small, triangular pieces, set against a dark background with some light effects.

Blueprint for Government Oversight and Regulation of AI

The Software & Information Industry Association (SIIA) has consistently advocated for the involvement of the U.S. government in fostering the responsible implementation of artificial intelligence (AI). In order to mitigate risks during the pre-deployment phase, SIIA recommends that the government establish guidelines and tailored requirements for AI systems that pose significant safety and rights concerns. Additionally, SIIA emphasizes the importance of advancing AI innovation, enhancing government adoption, and fostering strong public-private collaboration to effectively address the multifaceted challenges and opportunities presented by AI.

Establish Foundational Principles

AI policy should reflect a risk-based approach. There is no one-size-fits-all solution to address all AI systems. Accountability measures should be grounded in the types of AI systems and should be proportionate to the potential risks associated with each system or the intended uses of those systems. For most AI systems, self-assessments and transparency will provide the necessary accountability while avoiding undue burden on innovation and small and midsize businesses. While it is critical for even low-risk AI systems to be developed and used responsibly, vague, overbroad, or unnecessarily burdensome regulations will inevitably hinder AI firms from innovating and render them incapable of keeping pace with foreign competitors, prevent small and midsize firms from competing with large technology companies, and hurt the ability of Americans to access technology that may positively impact their daily lives. This white paper sets forth SIIA's positions on pressing issues in the AI policy space.

Policy should advance responsible, ethical, and trustworthy AI. The use of AI systems must respect fundamental, democratic values around equity, fairness, and privacy. We support measures to minimize unintended algorithmic and data-driven bias and mitigate risks to legal rights, safety, and security. We support efforts to advance responsible, ethical, and trustworthy development and use of AI as reflected in the NIST AI Risk Management Framework (RMF) and believe that AI development and deployment must be undertaken in accordance with the OECD AI Principles.



Responsible AI governance is complementary to innovation. All AI systems must conform with best practices for testing, evaluation, validation, and verification (TEVV) processes across the AI lifecycle. This includes documentation, risk assessments, and transparency measures, where appropriate, in a manner that protects trade secrets and other intellectual property. Accountability measures such as these improve the performance of AI systems, empower their users, and help to establish trust in AI systems designed to address key needs across our society.

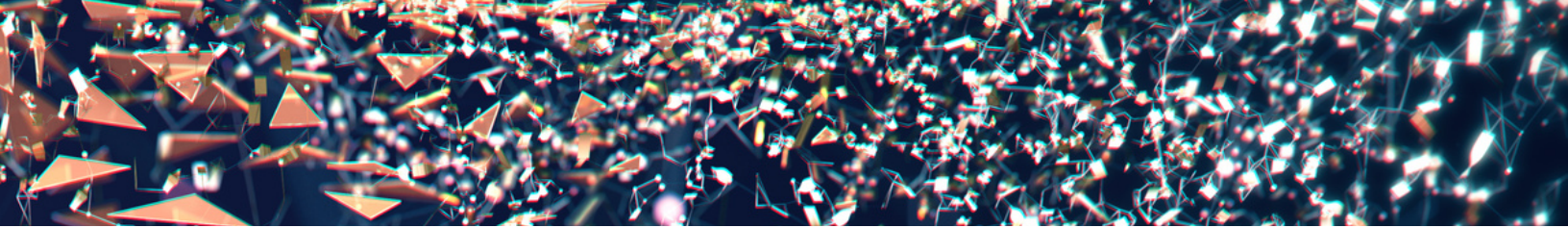
Responsible AI requires good governance. Many of our members at the forefront of AI have been leaders in advancing accountability practices. The reason is simple: AI that generates the most accurate information, limits unintentional bias, and builds on reliable data will be most useful to governments, businesses, and consumers. SIIA members are developing internal governance and systems oversight procedures to advance accountability and mitigate the potential for unintended bias and other risks.

Development of good AI policy requires a new model of public-private collaboration. Smart AI policy requires close collaboration among government, the private sector, civil society, and academia. As policy has lagged innovation, responsible actors in the private sector have led on developing accountability measures, mitigating AI-associated risks, and pioneering state of the art compliance measures. More must be done and working together across silos is essential to address ongoing societal concerns, ensure continued innovation, and cultivate the expertise and resources necessary for responsible government adoption of AI.

Advance a Framework for High-Risk AI System Oversight

A federal law should provide a baseline structure for oversight of high-risk AI systems. The law would define “high-risk AI systems,” identify agencies with responsibility for building out targeted requirements for accountability in high-risk AI systems (and, as appropriate, developing targeted use-based restrictions), identify a central body to coordinate across the interagency, codify NIST’s role in guiding the development of sector-based regulations, and direct agencies to undertake an assessment of existing authorities that cover important risks relating to the use of high-risk AI systems.

Regulation must begin with a clear definition of “high risk”. We recommend endorsing a definition of “high risk” that would be calibrated, as described below, by agencies with the expertise and experience to oversee high risk systems and uses in different sectors. As neither the NIST AI RMF nor the proposed EU Artificial Intelligence Act define “high risk,” we offer a definition recently proposed by an SIIA member as a good starting point: “Define ‘high-risk systems’ as those intended for use in applications that pose a material risk of significantly harming people or property or imperiling access to essential services.”



Regulation should focus on oversight rather than enforcement. As indicated in a recent statement by the DOJ, CFPB, EEOC, and FTC, the United States has a rich regulatory framework designed to “protect civil rights, fair competition, consumer protection, and equal opportunity.” The underlying laws, like Title VII and the Fairness in Lending Act, are technology neutral, and we believe there is no need for additional enforcement authorities. While directing agencies to undertake a gap analysis may prove worthwhile, for present purposes we recommend focusing legislative efforts on oversight necessary to advance responsible AI development and use.

Lean on NIST and the NIST AI RMF. The NIST AI RMF reflects the most comprehensive framework by the U.S. government (and perhaps anywhere in the world) for identifying, assessing, and mitigating risks. It is the culmination of a multi-stakeholder, expert-driven, and transparent 18-month process. The RMF, the NIST AI Playbook, and other resources at NIST’s Trustworthy & Responsible AI Center provide guidance on AI accountability measures. The value of these resources will only increase as NIST finalizes AI RMF Profiles based on key use cases. NIST—as a non-regulatory agency grounded in science, expertise, and non-partisanship—is well positioned to continue to serve as a focal point for guidance on AI accountability and the value of different measures to address risks associated with the uses of different types of AI systems.

Advance a Sector-Based Approach for High-Risk AI System Oversight

Congress should formalize oversight responsibility for high-risk systems in key agencies. Key agencies are those with existing oversight responsibility and expertise in the core sectors that experts have identified as most prone to unacceptable societal risk. As reflected in the OSTP Blueprint for an AI Bill of Rights and in bipartisan bills, such as the Transparent Automated Governance Act, these include sectors such as housing, health, essential utilities, employment, criminal justice, access to financial services, and education. Agencies should build on existing frameworks (such as the FDA’s oversight of AI/ML-enabled medical devices) and guidance (such as that issued by the Federal Reserve, the EEOC, and the Department of Education).

Direct key agencies to determine the parameters of high-risk within their areas of jurisdiction. AI oversight and accountability measures must be tailored to the AI systems at issue, focused on how those systems will be used and the risks attendant with use of systems in particular contexts. Agencies with oversight and regulatory responsibility for sectors most likely to involve high-risk AI systems should take the lead on identifying the appropriate accountability mechanisms. Balancing interests of transparency, accuracy, privacy, protection of individual rights, trade secret protection, and security will be essential to fashion the right approach to accountability – and it’s the agencies closest to the AI systems’ uses that will be best positioned to identify the goals to balance. In undertaking this task, agencies should consult with NIST and engage in NIST’s efforts to develop AI Profiles for key sectors.



Create an interagency coordination mechanism for AI oversight. We recommend that the U.S. government identify an appropriate office or agency to oversee and coordinate activity across the Executive Branch. We recommend that this function be embedded in the National Artificial Intelligence Initiative Office (NAIIO), which is part of the Office of Science and Technology and the White House. NAIIO is best positioned to coordinate across federal agencies, address cross-cutting matters, provide guidance on implementing Administration policy, and liaise with the private sector and civil society. We are concerned that NAIIO is not sufficiently resourced to carry out this oversight function. We encourage the Administration to ensure that NAIIO has adequate funding and staff to lead U.S. government efforts on AI accountability.

Avoid creating a new digital regulatory agency. Standing up a new agency will require significant investments of time, funding, and upskill that will impede constructive regulation. We strongly recommend a sector-based approach that relies on agency expertise and delegates to appropriate agencies the authority to identify the right mix of accountability measures that should apply to high-risk AI systems in those domains. This approach will build on existing expertise and knowledge – both critical to scoping “high risk” and advancing suitable oversight measures – and avoid bureaucratic challenges in creating a new agency to oversee AI systems across the economy.

Explore targeted use-based rules for general purpose AI systems. General purpose AI systems are not amenable to oversight in the same way as task-specific AI systems. And as these systems become more widely available to the public, including through open source distribution, regulating systems at the development stage will be a fool’s errand. Instead, we recommend building targeted use-based restrictions of these systems based on specific societal harms that are not addressed by existing, technology-neutral frameworks. We recommend this build on the existing study of the President’s Council of Advisors on Science and Technology, which launched an inquiry into generative AI earlier this year.

Appropriate Funds for AI Oversight and Government-Led AI Innovation

Provide agencies with necessary funding for AI oversight. Agencies must have resources sufficient to upskill and hire qualified personnel to oversee AI accountability efforts. That is not the case today, and critical needs to advance AI expertise as well as research & development continue to suffer from a lack of appropriations.

Invest in fundamental AI research and AI applications. Further to the issue of resourcing, SIIA believes the United States cannot continue to be a leader in responsible AI without providing the necessary resources to support responsible innovation. We encourage Congress to increase funding for important initiatives. These include funding



NIST, the Department of Energy’s Science Division, and the National Science Foundation in accordance with the programs authorized in the CHIPS and Science Act. It also includes ensuring that NIST has adequate funds to continue to advance its work on the AI RMF. In addition, we encourage the government to fully fund the programs set out in the National AI Research Resource (NAIRR) Task Force report issued earlier this year. The government can also lead the way in creating AI accountability certification programs to train personnel to augment the federal workforce.

Promote Domestic and International Regulatory Alignment

Federal law must preempt state law on AI oversight. States have been active in considering legislation that would mandate accountability measures for AI systems. As we have seen in the context of consumer privacy, where there is no comprehensive federal law, a patchwork of divergent state requirements has created challenges for industry, increased compliance costs, and increased uncertainty among consumers. AI is used in countless applications across the country and a patchwork of legal and policy frameworks will undermine public trust, suppress innovation, and hurt U.S. leadership on AI governance.

Continue efforts to align AI standards and regulations internationally. We support efforts to implement and operationalize the OECD AI principles, including continued work of the OECD to align jurisdictions internationally and the Global Partnership on AI. We support international efforts to align definitions, taxonomy, and AI management, including those of the U.S.-EU Trade and Technology Council (the TTC) and international technical standards organizations like Subcommittee 42 of the ISO/IEC JTC 1, which is finalizing standards on AI system management and has served as a focal point for international alignment. Advancing values-based oversight of AI is critical to ensuring that these technologies embody safety, security, trustworthiness, and other qualities that distinguish technology developed in the democratic world.

Reinforce a Tech-Neutral Approach to Intellectual Property

Copyright and patent law provide resilient frameworks for addressing the challenges created by generative AI. Under current copyright law, AI cannot be an author. The use of works in training AI models is, in most cases, covered by fair use doctrine and the legal framework for licensed materials remains intact. Existing licensing law and the technology-neutral approach of the current copyright statute remain adequate for the AI age.

As to patents, the United States is witnessing a revolution in AI. Current patent policy not only helped prime the explosion in this technology, but continues to foster it as massive investment in research and development continue at breakneck speed. Calls to allow an AI to be an inventor or to allow individuals to patent abstract ideas would undermine a system that has worked well for large and small actors alike for over 200 years.



ABOUT SIIA

SIIA is the principal trade association for the software and digital information industries. Our members include over 450 companies reflecting the broad and diverse landscape of digital content providers and users in academic publishing, education technology, and financial information, along with creators of software and platforms used by millions worldwide, and companies specializing in data analytics and information services. SIIA is the only association representing both those who develop and deploy AI engines and those who create the information that feeds environments.

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CONTACT INFORMATION

Paul Lekas
Senior Vice President, Global Public Policy and Government Affairs
Software & Information Industry Association
plekas@sii.net

