



- The [Canadian Bankers Association](#) (CBA) is aligned with the Government's policy objectives to promote the responsible development and use of AI systems in a manner that supports existing principles under Canadian law and consistent with the OECD's AI principles.
- In a rapidly evolving field like AI, a flexible, risk-based regulatory AI framework is necessary to ensure Canadian organizations can serve consumers in a manner that fosters confidence and builds trust in the responsible development, deployment and use of AI, including Generative AI systems.
- For this reason, it is important for the *Artificial Intelligence and Data Act* ("AIDA" or the "Act") to remain principles-based and outcomes-focused, while technology-specific items (e.g., references to, and discussion of, specific technologies) should be left to regulation.
- Coordination and cooperation with domestic partners, including regulatory agencies like OSFI, and international partners, at the G7 level in particular, is also an essential component of ensuring a degree of interoperability and harmony between various AI legislative and regulatory frameworks as well as other relevant frameworks (e.g. privacy or cybersecurity).
- As a result, we believe targeted amendments in the following areas of the Act are required to provide Canadian organizations with the certainty needed for them to continue to compete globally and innovate in a data driven economy while meeting the Government's objective of protecting individuals from harms posed by AI systems.

Scope of Artificial Intelligence Systems: Amend the definition of an AI system to support AIDA's policy intent and avoid unnecessarily broadening the scope of systems captured under AIDA.

Transparency Obligations and Related Provisions: Amend the requirements related to public disclosures by the relevant actors under AIDA and include appropriate exceptions such that organizations will not be compelled to disclose proprietary or sensitive information, which will ultimately protect the public and organizations from avoidable harm that can potentially be caused by broad disclosures of risks or mitigation measures.

This includes the obligation on persons responsible under the Act to disclose prescribed information; as well as the right to disclose information by i) the Minister or Commissioner to others and ii) the right to publish information by the Minister or the Commissioner.

Clarifying Obligations Across the AI Value Chain: An unambiguous set of distinctions between the actors and activities, and their interdependencies across the AI value chain, developed through targeted consultations is required to avoid confusing, conflicting, or overlapping obligations. This will provide the various stakeholders with the operational clarity that is necessary to ensure they can remain accountable for their obligations throughout the lifecycle of an AI system.

Implementation & Other Considerations: We believe it is critical to ensure that organizations are provided sufficient runway (minimum two years) to manage and implement new changes once AIDA receives Royal Assent and the bulk of the obligations under AIDA are published through regulations. We have also included recommendations related to several key considerations below that should be addressed in consultation with stakeholders on the regulations for AIDA.

In conclusion, it is evident that the proposed changes to AIDA represent a significant step forward in the regulation and governance of emerging technologies. However, it is essential for ISED to continue engaging with experts, stakeholders, and the public through a public consultation process that ensures a comprehensive and balanced approach to AI regulation. By fostering collaboration and remaining vigilant to the evolving nature of AI, Canada can effectively address the challenges and opportunities presented by this transformative technology, ultimately benefiting Canadians and society as a whole.

- (a)** how the system is intended to be used;
- (b)** the types of content that it is intended to generate and the decisions, recommendations or predictions that it is intended to make;
- (c)** the mitigation measures established under section 8 in respect of it; and
- (d)** any other information that may be prescribed by regulation.

To strike a better balance between the intent of AIDA to enhance the transparent use of AI systems with the need to protect organizations' confidential and sensitive information, we recommend that a *general account* of AI systems, including high-impact and general-purpose AI systems, similar to the provisions outlined in CPPA's s.62 (2), would provide an appropriate level of detail to the public without divulging system specific information. Incremental information, or detailed information on specific AI systems, could be provided to the Minister or Commissioner upon request or through audits.

Publication without consent: S.28(1) permits publication of information by the Minister without consent or notification to the person to whom the information relates.

CBA Recommendation: We recommend that an obligation be added under this section to first notify and consult with the impacted organization (or organizations) and institute some form of confirmation or resolution process, prior to the Government having the right to publish such information, which may be competitively sensitive, highly confidential, or both.

Disclosure to recipients: Under s.26(2), there is no legislative restriction on the recipient disclosing the data.

Recommendation: Such a restriction should be added along with a requirement for the recipient to maintain confidentiality of the information under the recipient's governing legislation.

3. Clarifying Obligations Across the AI Value Chain:

Original AIDA Text (s. 5 (2)): For the purposes of this Part, a person is responsible for an artificial intelligence system, including a high-impact system, if, in the course of international or interprovincial trade and commerce, they design, develop or make available for use the artificial intelligence system or manage its operation.

Proposed ISED Amendments²:

(s. 9 (1)): Developing machine learning models intended for high-impact use and associated requirements in sections 9(1)(a) to 9(1)(d)

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² This section lists the relevant clauses related to the various actors under AIDA and references their associated requirements under the Government's proposed amendments.

Accountability Framework: We support the intent to ensure organizations are accountable for their own risk management practices within the Government's proposed Accountability Framework (s.12 in the Government's proposed amendments) but caution against introducing overly prescriptive requirements that risk adding avoidable complexity, without strengthening the accountable use of AI. For example, it is unclear how the benefits of a description of the roles and responsibilities and reporting structure for *all* personnel who contribute to making the artificial intelligence system available or who contribute to the management of its operations outweigh the avoidable complexity of doing so, for organizations of all sizes.

Consequently, we support the amendment introduced under section 12(6) that notes a person must take into account the nature and size of their business and the risks of harm or biased output that could result from the use of the artificial intelligence system under the Accountability Framework. As part of consultations for regulations, if the amendments are adopted, further exemptions will be required where duplicative obligations under the Accountability Framework overlap or conflict with existing regulatory expectations that organizations are expected to comply with.

c. Administration & Enforcement: We appreciate that the proposed amendments by ISED intend to create greater clarity around the role of the AI and Data Commissioner, yet we remain concerned about the Commissioner's lack of independence from the Minister, which will likely result in the same office being responsible for AIDA's policy and enforcement functions. Such a concentration of function could potentially result in enforcement being influenced by the policy intention, or other factors, rather than an impartial interpretation of the policy itself.

We remain concerned that significant aspects of the enforcement regime have been left to regulation, rather than being addressed in the statute (this stands in contrast to the CPPA portion of Bill C-27 which contains critical details related to the Act's administration and enforcement). Absent from AIDA are any procedural details for commencing or

conducting the proceedings (which have been pushed to regulations). Other gaps that contribute towards greater uncertainty and heightened risk for organizations, given the significant penalties imposed by AIDA, include the lack of a tribunal (similar to what is contained in the privacy portion of the bill); no provisions with respect to evidence or other procedural requirements; and no informal dispute resolution mandate.

d. Anonymization: We support the proposed amendment to remove s.6 of AIDA, which avoids the introduction of duplicative or contradictory anonymization obligations between CPPA and AIDA.

e. Implementation: We urge the Government to provide organizations with a reasonable timeframe (at minimum two years) to implement AIDA's provisions as they are likely to impact the design, development, procurement, and deployment of AI systems, particularly given the potentially significant penalties for noncompliance.

We appreciate that many details of AIDA will be contained within forthcoming regulations and note this lack of clarity within the Act itself poses substantive challenges to organizations seeking to assess the implications of requirements under the Act. However, we understand that ISED intends to consult extensively on these regulations for AIDA. We are committed to actively participating in these discussions and to address key concerns that may arise from AIDA's regulations, including the various obligations applicable to and criteria for high-impact systems, machine learning models and general-purpose AI systems, record keeping requirements, measures with respect to the use of data, oversight and enforcement of AIDA, alignment, and regulatory details regarding biased output.