A BDO Legal Guide to the

FRIA

Fundamental Rights Impact Assessment

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Discover how to protect fundamental rights in the age of AI with our comprehensive FRIA guide.

INTRODUCTION

Certain institutions, such as banks and insurance companies, are required to perform a Fundamental Rights Impact Assessment (FRIA) when using high-risk AI systems. This is a requirement of article 27 of the Artificial Intelligence Act ('the AI Act').

A FRIA is a systematic process to evaluate the potential impact of high-risk AI systems on the fundamental rights of individuals or groups.

It ensures that the deployment of such systems aligns with the protection of health, safety, fundamental rights, democracy, the rule of law, and environmental protection.

According to the AI Act, a FRIA is mandatory for the following individuals or entities that use an AI system within its professional scope ("deployer"):

- Bodies governed by public law (including law enforcement using real-time remote biometric ID system).
- Private entities providing public services such as in the areas of education, healthcare, social services, housing, administration of justice.
- Entities such as banking or insurance entities, using high-risk AI systems for evaluating creditworthiness / establishing a credit score (not fraud detection) or for risk assessment and pricing in relation in the case of life and health insurance.

However these deployers only need to perform the FRIA if they use the high-risk AI systems for:

- Biometrics (insofar as permitted under relevant law).
- Education and vocational training.
- Employment, workers' management and access to self-employment.
- Access to and enjoyment of essential private services and essential public services and benefits.
- Law enforcement (insofar as permitted under relevant law).
- Migration, asylum and border control management (insofar as permitted under relevant law).
- Administration of justice and democratic processes.

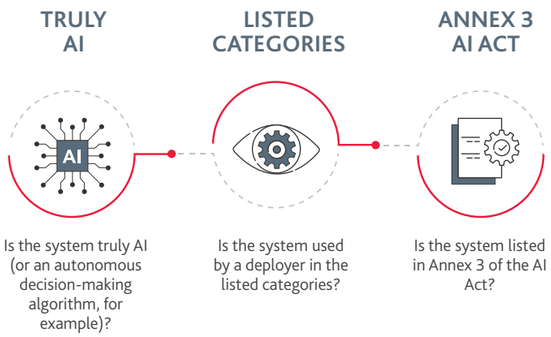
FRIAs must be completed before the deployment of these systems.

KEY STEPS IN CONDUCTING A FRIA

A FRIA focuses on risk management. Risks to affected individuals should be identified, their likelihood and severity assessed, and mitigants should be defined to control those risks.

The first step should be to check whether a FRIA is required at all.

For this, check:



If all checks are answered positively, the FRIA should be carried out.

A FRIA focuses on risk management.

5 steps to complete a FRIA

Organisations should make sure their assessment at least contains the following steps:

1 CHECK WHETHER EXISTING FRIAS AND DPIAS CAN BE USED

(a FRIA complements existing DPIA's).

2 DESCRIBE THE AI SYSTEM:

- The processes in which the AI system will be used.
- The period of time during which the AI system will be used.
- The frequency with which the AI system is intended to be used.
- The categories of natural persons and groups likely to be affected by its use in the specific context.

3 IDENTIFY RISKS:

- Specific risks to fundamental rights.
- Potential discrimination based on sex, race, religion, etc.
- Risks to privacy, freedom of expression, and other rights.

4 DEFINE MITIGATION MEASURES:

- Human oversight measures.
- Internal governance and complaint mechanisms.
- Measures to address and rectify potential discrimination and harm.

5 NOTIFICATION:

- The relevant market surveillance authority should be notified of the results.
- The template questionnaire (to be developed by the AI Office) must be filled out and submitted.

CONCLUSION

Certain high-profile organisations are required to carry out a Fundamental Rights Impact Assessment (FRIA) before they start using specific high-risk AI systems.

The FRIA is a crucial tool to ensure they operate within the bounds of fundamental rights and legal frameworks.

The results of the FRIA must be submitted to the relevant market surveillance authority.

Given the complexity of AI systems and the requirements that must be met (such as performing the FRIA before deploying the AI system), a timely start is essential.

The FRIA is an obligation which stems from the AI Act.

Contact us to know more about AI Act requirements taking effect on **2 February 2025**, such as AI Literacy.

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