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California Proposes Law Regulating Use of Artificial Intelligence*

The development of artificial intelligence technology has recently become a hot button topic. Several reports have highlighted the advancements in the field, and how AI could potentially become more widespread in our daily lives.

Never a state to be late to the regulatory party, California lawmakers have already proposed a new law that would impose new rules on those that use and develop artificial intelligence for business purposes. Specifically, California Assembly Bill 331 (AB 331) would require a “developer” (one who develops artificial intelligence) and/or “deployer” (one who uses artificial intelligence to perform business activities) to perform impact assessments prior to using or developing automated decision tools that rely on artificial intelligence, and develop internal policies and procedures regarding the use of these technologies. Additionally, AB 331 would require companies that use these tools to make consequential decisions to provide a disclosure to any natural person that is subject to a “consequential decision” made by the person. Notably, a “consequential decision” covers a decision that materially impacts someone’s employment or access to financial services.

At first glance, BCG members may think AB 331 will not be particularly relevant even if it does pass since they do not use automated decision tools that rely on artificial intelligence in their business operations. However, AB 331 has a fairly broad definition of “artificial intelligence.” Specifically, AB 331 would define “artificial intelligence” as *a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing a real or virtual environment.* This is an extremely broad definition that could encompass systems or technologies that have already been utilized for many years. In other words, if the term artificial intelligence is defined broadly in AB 331, or any future legislation on this issue, there is a good chance it could capture financial institutions.

The regulation of artificial intelligence is still very much in its nascent stages. Thus, this issue will continue to evolve as time passes and the technology progresses. Institutions should continue to monitor developments in this area as it could very well have a significant impact on its future operations. For additional questions on AB 331, contact John Davis JDavis@ABLawyers.com.

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