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REGULATORY SCRUTINY BOARD OPINION

Impact assessment / Cloud and AI Development Act

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Brussels,
RSB

Opinion

Title: Impact assessment / Cloud and AI Development Act

Overall 3rd opinion: POSITIVE

(A) Policy context

The Cloud and AI Development Act was a recommendation of the Draghi Report and in the Competitiveness Compass. The main objective of this initiative is to address the EU's gap in cloud and AI infrastructure around 3 pillars: research & innovation aimed at accelerating research and innovation in cutting-edge AI computing technologies, the sustainable cloud and AI capacity pillar to boost EU's data processing infrastructure, and increased secure data processing capacities of cloud providers located in the EU for the high-critical use cases.

(B) Key issues

The Board notes the improvements to the report, in particular with regard to policy options and assessment of impacts.

The Board gives a positive opinion. The Board considers that the report should be further improved with respect to the following aspects:

- (1) The report should sufficiently describe the policy measure establishing a set of non-price award criteria and the one encouraging the use, reuse, development and sharing of open-source assets by the public sector.**
- (2) The internal coherence between the policy measures addressing sovereign cloud and AI services and those addressing critical dependencies and supporting the use of Open Source should be sufficiently explained and assessed.**
- (3) The costs related to migration and porting and the related uncertainties should be sufficiently reflected in the assessment of the total costs in the main report.**

(C) What to improve

- (1) The policy measures aimed at reducing critical dependencies (PM16/PM19) should be better described, in particular why the criterion “outside of the country of dependencies” is used rather than “within the EU”, on the basis of which criteria the dependency threshold is set at 50%, how the non-price award criteria are to be used by public buyers, how they will be used and assessed. The report should also better discuss the representativeness of the assumptions in PM15 regarding what percentages of use cases would respectively require sovereignty levels 1, 2, 3 and 4.
- (2) Policy measure PM20 encourages the use of Open Source in the public sector and requires the contracting authorities to assess the equivalence/superiority of Open Source over proprietary solutions in the tendering procedure. PM22 encourages EU level joint public procurement. Building on the annex, the report should better analyse the impact of these measures on public authorities, including the need for specialised expertise and interplay with envisaged Open-Source Programme Offices, as well as how a uniform approach across the EU will be ensured. The impact of these measures on the companies offering the relevant IT services should also be discussed.
- (3) Regarding external coherence: as the policy measure PM11, defining the sovereignty levels and the associated requirements, includes criteria based on the European Cybersecurity Certification Scheme for Cloud Services (EUCCS), which has not yet been adopted, the report should describe in more detail the interplay of the two initiatives as well as implementation uncertainties for EUCCS.
- (4) In view of the impact on the total costs of the initiative, the costs related to migration and porting, described in box 2 and in the annex, should be reflected in a summary table of costs and benefits.

(D) Conclusion

The lead Service may proceed with the initiative.

The lead Service should take these recommendations into account when revising the report and its executive summary in accordance with the Board’s findings before launching the interservice consultation.

Full title	Cloud and AI Development Act
Reference number	PLAN/2025/815
Submitted to RSB on	30 April 2026
Date of RSB meeting	“Written procedure”



Brussels,
RSB

Opinion

Title: Impact assessment / Cloud and AI Development Act

Overall 2nd opinion: NEGATIVE

(A) Policy context

The Cloud and AI Development Act was a recommendation of the Draghi Report and in the Competitiveness Compass.

The general objective of the intervention is to ensure the functioning of the internal market for cloud and AI computing services and to secure the conditions necessary for the Union's competitiveness and strategic autonomy

(B) Key issues

The Board notes the information provided and the changes in the objectives and measures, and improvements regarding presentation of some limitations of the report.

However, the Board maintains its negative opinion because the revised report still contains the following significant shortcomings:

- (1) The key proposed policy measures are not sufficiently specified to allow for the assessment of those measures and whether they can address the identified problems of EU competitiveness and strategic autonomy. Their proportionality is not adequately demonstrated.**
- (2) The analysis of effectiveness and efficiency does not adequately reflect all the costs (i.e. transition costs). The benefits appear to be over-estimated.**
- (3) The analysis of coherence must be reinforced as there are apparent overlaps with existing and upcoming legislation.**

(C) What to improve

(1) Given the market situation and the stated specific objectives, the interplay between the criteria for authorising sovereign cloud services and existing legislation in third countries should be clarified and the resulting impacts analysed. The report must provide a robust estimate of the number of entities affected by mandatory requirements regarding sovereign solutions, as well as which sovereign cloud services EU service providers currently do not offer. The report should explain how “countries with dependencies” will be identified as well as how and by whom the criterion of equivalence/superiority will be established for the prioritisation of open source. Without these clarifications the impact and proportionality of the intervention in terms of costs, including transition costs, and benefits cannot be credibly assessed.

(2) The analysis of benefits must be based on robust and verifiable assumptions and methodologies. Although the report acknowledges the arbitrary choice of certain assumptions and parameters used for assessing the impact of key measures under the preferred option, those (for example increased market shares, risk parameters allocation between the various options, mark-up percentage for sovereignty increased costs) appear to drive the results of the analysis.

(3) The report must provide a more comprehensive analysis of technical, functional and operational consequences of key measures (i.e. PM 20, 21). As certain measures (in particular PM 21, embedding PM 11, 15 and 16) aim at building an EU sovereign cloud, the impacts of the limitations of supply from third countries must be assessed, including the time and costs estimated for EU service-providers to offer equivalent substitutes. The report should assess the pass-through of these costs.

(4) The report should provide a detailed analysis of coherence, in particular of the authorisation scheme for cloud and AI computing services with the security risk assessment in the Cybersecurity Act and of public procurement measures with the upcoming revision of the public procurement rules. This should be accompanied by an analysis of the potential additional legal complexity and administrative burden.

(5) Given the above, the report does not adequately inform the decision-making.

(D) Conclusion

The Board’s opinion is, as a rule, final. The lead Service can seek political guidance on whether, and under which conditions, this initiative may proceed further.

Full title	Cloud and AI Development Act
Reference number	PLAN/2025/815
Submitted to RSB on	25 February 2026
Date of RSB meeting	“Written procedure”



Brussels,
RSB

Opinion

Title: Impact assessment / Cloud and AI Development Act

Overall opinion: NEGATIVE

(A) Policy context

The Cloud and AI Development Act was a recommendation of the Draghi Report and in the Competitiveness Compass. The main objective of this initiative is to address the EU's gap in cloud and AI infrastructure around 3 pillars: research & innovation aimed at accelerating research and innovation in cutting-edge AI computing technologies, the sustainable cloud and AI capacity pillar to boost EU's data processing infrastructure, and increased secure data processing capacities of cloud providers located in the EU for the high-critical use cases.

(B) Key issues

The Board notes the additional information provided and commitments to make changes to the report.

However, the Board gives a negative opinion because the report contains the following serious shortcomings that the lead Service must address:

- (1) The report does not sufficiently establish the root cause(s) of the competitiveness problems of the EU industry and the regulatory and market failures affecting the cloud ecosystem in the EU.**
- (2) The aspects of EU strategic autonomy are insufficiently reflected in the report.**
- (3) The proposed policy measures, including on EU 'sovereign' solutions, are not clearly defined and the causal links in the intervention logic are not sufficiently substantiated.**
- (4) The analysis of effectiveness and efficiency does not sufficiently reflect the adjustment costs, technical feasibility and unintended consequences linked to the proposed policy measures.**

(C) What to improve

- 1) The report should better analyse the root causes of the insufficient cloud capacities in the EU and the declining market share of European services providers. Based on an analysis of the main drivers of competitiveness, such as price, scope of services, innovation and quality, including cyber security, it should analyse potential market failures. It should also analyse potential regulatory failures based on available evidence of investment decisions. It should analyse more thoroughly the current practices and regulatory frameworks in Member States and how they impact the Internal Market. It should describe the risks of reliance on non-EU providers and the potential trade-offs with aspects of strategic autonomy.
- 2) The report should be clear whether – and if yes how - the objectives of this initiative relate to the EU’s strategic autonomy. What level of autonomy is to be achieved and in which domains? The content of policy measures should be clearly defined, including the criteria for “sovereign solutions” and “EU-made”. The report should better justify how the target of market share of EU providers is set.
- 3) The report should assess the potential impacts related to the criteria for “sovereign solutions”. It should analyse in sufficient detail the levels of sovereignty to be reached and be transparent about technical prerequisites needed. The report should assess all the adjustment costs and quantify them to the extent possible and be clear on who will bear these costs. The report should provide a more comprehensive analysis of unintended consequences, including on cyber security, in particular related to sovereignty and open-source requirements.
- 4) The analysis of benefits should be based on robust assumptions, in particular for PO2B and PO2C where stated benefits are very high. For example, all implications should be factored in the analysis, such as investments needed to maintain cyber security, and the scale needed to make them viable in economic terms. In terms of the environmental footprint, the report should explain the mechanisms leading small(er) EU cloud providers to significantly reduced Power Usage Effectiveness values and how European-funded R&D initiatives are expected to deliver superior results when compared to the efforts of global hyperscalers.
- 5) The report should allow for verifiability of the economic modelling. It should quantify and monetise only benefits which can be clearly linked to the policy measures and whose quantification can be substantiated by evidence. Currently the benefit cost ratios presented in the report are not plausible. After revision of the analysis of costs and benefits, the sensitivity analysis should be reviewed in order to allow to assess uncertainty related to the most impactful variables behind the projections.
- 6) The coherence, complementarity and potential synergies with other initiatives - such as the Cybersecurity Act, Data Act or the public procurement revision - should be analysed in more detail.

Some more technical comments have been sent directly to the author Service.

(D) Conclusion

The DG must revise the report in accordance with the Board's findings and resubmit it for a final RSB opinion.

Full title	Cloud and AI Development Act
Reference number	PLAN/2025/815
Submitted to RSB on	10 December 2025
Date of RSB meeting	14 January 2026