Key messages in view of the ongoing trilogue discussions on the Artificial Intelligence (AI) Act

1. Definition of an AI system

The definition of an AI system needs to be as clear and precise as possible, particularly in light of the inherently global nature of AI systems and the need to ensure consistency at international level. The insurance industry therefore proposes a definition that is closely aligned with the work of international organisations, in particular the approach of the OECD. This will ensure greater certainty and consistency at global level and avoid the risk of divergent classifications of AI systems. At the same time, the definition provides flexibility to adjust to rapid technological developments in this field. Insurance Europe's proposal for a definition of an AI system combines elements from both the European Parliament and Council texts, maintains alignment with the OECD approach and places a clearer focus on the more salient characteristics of machine learning, ie, inference.

> **Insurance Europe proposal for Article 3**
> (1) 'artificial intelligence system' (AI system) means a machine-based system that is designed to operate with varying levels of autonomy and that, based on machine and/or human-provided data and inputs, infers how to achieve a given set of objectives, and produces system-generated outputs such as content (generative AI systems), predictions, recommendations or decisions, influencing the environments with which the AI system interacts;

2. Classification of high-risk AI systems

While the insurance industry firmly believes that insurance should be excluded from the list of high-risk AI systems in Annex III, it is important that any inclusion of life and health insurance in the list is focused on addressing potential concerns related to specific uses of AI. The Parliament's text is therefore a more appropriate option, as it targets possible exclusionary or discriminatory outcomes from not being able to access insurance coverage.

However, the insurance industry would propose ensuring that insurance-based investment products (IBIPs) do not fall under the category of life insurance. Insurance-based investment products combine an investment element with insurance protection, in the form of a guarantee or coverage against a risk, eg, the risk of death or sickness. It should be made clear in the text that they are not considered high risk in order to avoid any difference between their treatment and that of other types of investment products.

Insurance Europe also believes that there should not be any exemption for micro- and small-sized enterprises, as proposed by the Council. The level of risk posed by an AI system depends rather on the use to which it is put and not on the size of the provider. This exemption would mean that high-risk AI systems used by micro- and small-sized providers would fall outside the scope of the requirements.

> **Insurance Europe proposal for Annex III — paragraph 1 — point 5**
> AI systems intended to be used for making decisions or materially influencing decisions on the eligibility of natural persons for health and life insurance, with the exception of insurance-based investment products.

3. Assessment of the level of risk posed by high-risk AI systems

The insurance industry welcomes the inclusion in Article 6 of the Parliament's text of the possibility that providers falling under one or more of the critical areas and use cases referred to in Annex III may be exempt from the requirements of Title III Chapter 2 if they can demonstrate that their AI system does not pose a significant risk.