
PERSPECTIVES

AI WASHING AND THE IMPERATIVE FOR BOARD GOVERNANCE



Our perspectives feature the viewpoints of our subject matter experts on current topics and emerging trends.

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Disclosure: James E. Malackowski serves as Chief Intellectual Property Officer of J.S. Held LLC and as Advisory Board Chair and cofounder of AIQA Global, LLC, which developed the AIQ Score™ methodology referenced in this article. John A. Hudson and J. Scott Womack are Ocean Tomo professionals working in the J.S. Held Office of the CIPO. The views expressed are those of the authors and do not necessarily reflect the positions of Ocean Tomo, J.S. Held LLC or AIQA Global, LLC. This article is provided for informational purposes and does not constitute legal, investment, or regulatory compliance advice.

Boards and C-Suite Executives should read this article to:

- Understand how AI washing creates personal fiduciary and liability exposure under evolving enforcement standards.
- Learn why traditional disclosure controls and compliance programs are insufficient for AI-related claims.
- Gain a framework for implementing quantitative, auditable AI governance metrics as board assurance tools.
- Recognize how verified AI governance can be leveraged as a competitive advantage with investors and insurers.
- Identify the executive ownership model—centered on the CIPO or equivalent—needed to close governance gaps.

Legal Counsel, Insurers, and Investors should read this article to:

- Identify emerging enforcement patterns and litigation theories shaping AI-related disputes.
- Assess how AI governance maturity influences D&O liability, insurance coverage, and underwriting decisions.
- Understand how standardized AI metrics can support due diligence, disclosure defense, and risk pricing.
- Distinguish credible AI capability from marketing-driven claims in investment and litigation contexts.

EXPERT VOICES

James E. Malackowski



James leverages his role as J.S. Held's Chief Intellectual Property Officer and decades of experience to advance a board-level framework for treating AI as a measurable and auditable intangible asset subject to fiduciary oversight.

John A. Hudson



John, as Senior Managing in the office of Chief Intellectual Officer at J.S. Held, draws on his expertise in intellectual property strategy and commercialization to analyze how AI misrepresentation affects enterprise value, disclosures, and capital markets risk.

J. Scott Womack



Scott, a Senior Director in the office of Chief Intellectual Officer at J.S. Held, brings his expertise in intellectual property valuation and governance implementation to deliver practical guidance on operationalizing AI governance metrics and board oversight structures.

Executive Summary

As artificial intelligence becomes increasingly embedded in corporate strategy, operations, and investor communications, organizations face accelerating risk from “AI washing”—the overstating or misrepresentation of AI capabilities. This risk now represents a material board level governance, fiduciary, and enterprise value issue. Regulatory agencies, including the SEC, DOJ, and FTC, and the sharp increase in private securities litigation, demonstrate that AI misstatements can expose directors and officers to personal liability. This article explains that boards can mitigate AI washing risk by treating AI as a core intangible asset (“AI as

IP™”) and adopting quantified AI governance frameworks. Effective AI governance not only reduces regulatory and litigation exposure but also delivers a competitive advantage by strengthening investor confidence, improving insurance underwriting, enhancing capital markets positioning, and credibility.

The Chief Intellectual Property Officer (CIPO), or equivalent executive, serves as the leader who can integrate technical validation, legal disclosure requirements, and strategic value

creation. As a continuation of the Artificial Intelligence as Intellectual Property Framework (“AI as IP™”) series, this article provides boards with a practical framework for overseeing AI governance, preventing AI washing, and transforming AI transparency from a compliance obligation into a driver of long term enterprise value. The article also highlights how J.S. Held’s multidisciplinary expertise in strategic advisory, business valuation, and intellectual property can help recognize and manage AI governance.

BOARD BRIEFING

THE RISK

Artificial intelligence (AI) “washing,” false or exaggerated claims about AI capabilities, has emerged as a critical threat to corporate credibility, shareholder value, and director liability. The SEC, DOJ, and FTC have all launched enforcement actions targeting companies that overstate AI sophistication. The SEC’s Cyber and Emerging Technologies Unit has designated AI washing as an immediate enforcement priority. Directors face personal liability risk under the “knew or should have known” standard, while private shareholder class actions alleging AI-related misrepresentation have doubled year-over-year.

THE REGULATORY REALITY

Multiple enforcement actions in 2024-2025 demonstrate sustained regulatory commitment to combating AI misrepresentation across administrations. The EU AI Act imposes mandatory transparency requirements with fines up to €35 million or 7% of global revenue. US agencies are prosecuting AI washing under traditional fraud statutes while the SEC’s 2026 Examination Priorities explicitly target AI-related disclosures. State-level AI legislation continues to proliferate, with 1,208 AI-related bills introduced across all 50 states, and with 145 enacted into law in 2025 alone. Boards cannot afford to wait for regulatory clarity to act.

THE SOLUTION

Standardized AI quality metrics, such as those exemplified by the AIQ Score™ framework and similar quantitative governance rating systems that may emerge, provide boards with governance assurance mechanisms comparable to Sarbanes-Oxley internal controls. These metrics quantify AI maturity across governance, technical robustness, responsible AI, and strategic alignment dimensions, enabling boards to verify management claims, benchmark competitive positioning, and demonstrate regulatory compliance through independent audit.

THE ACTION

Boards should mandate implementation of verifiable AI quality measurement under appropriate executive leadership, integrate quantitative AI governance metrics into board oversight and committee structures, require management certification of AI-related disclosures, and report verified AI quality scores in ESG disclosures and annual reports. This transforms AI governance from a compliance burden into a competitive advantage.

I. INTRODUCTION: THE AI TRANSPARENCY CRISIS

For boards and executives, the AI washing crisis is not simply a legal compliance issue, it is a test of corporate credibility, governance maturity, and fiduciary responsibility.

AI has emerged as the defining technological and economic force of the twenty-first century. By 2025, Ocean Tomo’s research showed that [intangible assets, including AI systems, algorithms, and data assets, comprised approximately 92% of S&P 500 market value](#), a dramatic increase from just 68% in 1995. Yet this transformation has occurred without corresponding transparency mechanisms. Unlike traditional assets subject to established accounting standards and valuation methodologies, AI systems operate as a form of “invisible capital” lacking standardized measurement frameworks or quality benchmarks.

This opacity creates pressure on management and risk for boards. Companies face intense expectations from investors, customers, and competitors to demonstrate AI capabilities. The result is what regulators have termed [“AI washing,” which is defined as false, misleading, or exaggerated claims about AI adoption, sophistication, or impact](#). The phenomenon has drawn bipartisan enforcement attention, leading to what former SEC Chair Gary Gensler called the Commission’s [“war” on AI fraud](#), drawing a direct parallel between [greenwashing and AI washing](#). The current SEC under Chair Paul Atkins has [maintained AI fraud as a priority](#) through its newly constituted Cyber and Emerging Technologies Unit (CETU), established in February 2025.

The scale of the problem is accelerating. In the last five years, more than 50 securities class action lawsuits have been filed alleging false or

misleading statements related to AI. The number of AI-related cases filed each year is trending upwards. [While there were seven securities class action cases related to AI disclosures filed in 2023, that number rose to 15 in 2024 and 16 in 2025](#). High-profile targets have included Apple Inc., facing shareholder claims that [AI capability overstatements](#) contributed to approximately \$900 billion in lost market capitalization, alongside actions against C3.ai, Elastic N.V., AppLovin, and others.

For corporate leaders, AI washing represents a convergence of strategic, reputational, and legal risks. Failed AI claims damage market credibility and shareholder value. [Misleading disclosures trigger SEC enforcement and shareholder litigation](#). And increasingly, corporate leaders face personal liability for inadequate oversight of AI-related representations. The board’s fiduciary duties of care and loyalty now extend explicitly to ensuring the accuracy and substantiation of management’s AI claims.

This article provides boards and executives with a framework for addressing AI washing through standardized quality metrics and governance oversight. Part II examines what constitutes AI washing and why it presents unique governance challenges. Part III analyzes current enforcement actions spanning the SEC, the Department of Justice, the Federal Trade Commission, and private litigation, revealing regulatory priorities. Part IV explores the regulatory landscape and why traditional compliance structures prove inadequate. Part V proposes standardized AI quality metrics as the governance solution. Part VI demonstrates that implementation naturally falls to the Chief Intellectual Property Officer (CIPO). Part VII provides practical steps for board adoption and oversight.

II. DEFINING AI WASHING: CHARACTERISTICS AND GOVERNANCE IMPLICATIONS

AI washing defies conventional oversight because it exploits the gap between technical complexity and board-level comprehension, creating material governance risks that traditional compliance cannot detect.

A. What Constitutes AI Washing

AI washing encompasses several distinct [but related forms of misrepresentation that boards must understand to provide effective oversight](#). At its most basic, AI washing involves claiming to use AI technology that does not exist or does not function as represented. This includes representing that human-performed tasks are AI-automated, claiming proprietary AI technology that is actually licensed from third parties, or asserting AI capabilities that remain in development or testing phases.

More subtly, AI washing can involve material exaggerations about AI sophistication, accuracy, or business impact. Companies may overstate the degree to which AI influences decision-making, the extent of AI integration into products or services, or the competitive advantages derived from AI systems. When they are material to investor decisions and lack a reasonable basis in fact, [these representations become actionable](#).

The emerging taxonomy of AI washing extends across multiple contexts. [Plaintiffs have alleged](#) that companies overstated AI-related efficiencies, repackaged existing technology under AI branding, offered AI products that were flawed or lacked consumer interest, concealed reliance on manual labor

and third-party tools while marketing offerings as AI-driven, or concealed increased cost and negative financial impact from AI initiatives. In the consumer protection space, the FTC has targeted companies making deceptive claims about AI product capabilities, including through its [“Operation AI Comply” initiative](#) launched in September 2024.

B. Why AI Washing Presents Unique Governance Challenges

AI washing differs from traditional securities fraud in ways that complicate board oversight. First, [the technical complexity of AI systems creates information asymmetry](#) between management and directors. Unlike financial misstatements that audit committees can verify through established procedures, AI capabilities resist straightforward verification. [The impact on operations is profound](#), as there exist no generally accepted standards for AI quality, no mandatory technical disclosures, and no certification requirements for AI claims.

Second, the definition of “artificial intelligence” itself remains contested. The term encompasses a spectrum from simple automation to sophisticated machine learning models and generative AI. This definitional ambiguity enables companies to characterize conventional software as “AI-powered” without technical misrepresentation, yet with misleading implications.

Third, [AI development timelines and uncertainty complicate oversight](#). When do forward-looking statements about AI capabilities cross from permissible optimism to actionable fraud? [The Apple shareholder litigation](#) illustrates this tension: investors allege the company’s June 2024 announcements about Apple Intelligence and advanced Siri capabilities constituted misrepresentation when the company allegedly had no functional prototype of the advertised features, and subsequently delayed the upgrades to 2026.

Fourth, AI washing threatens systemic market efficiency. If AI claims become uniformly mistrusted, legitimate innovators cannot credibly signal quality to capital markets. This adverse selection problem, where misrepresentation drives out truth, represents precisely the market failure that governance exists to prevent.

III. ENFORCEMENT ACTIONS, AI DISPUTES LITIGATION, AND DIRECTOR LIABILITY

Understanding the rapidly expanding enforcement landscape enables boards to identify risks within their own oversight practices and implement preventive measures.

A. SEC Enforcement: The First Wave

The SEC launched its AI washing enforcement program in March 2024 with [simultaneous actions against two investment advisers: Delphia \(USA\) Inc. and Global Predictions Inc.](#) Both firms allegedly made false statements about their use of AI in investment decision-making, violating antifraud provisions and breaching the Marketing and Compliance Rules under the Investment Advisers Act. Delphia claimed in SEC filings that it used sophisticated AI to analyze vast data in making recommendations; [an investigation revealed these claims substantially overstated AI's role.](#) Global Predictions made similar misleading claims on its website and social media. [Delphia agreed to a \\$225,000 penalty, and Global Predictions agreed to a \\$175,000 penalty.](#)

[These cases established key enforcement priorities.](#) The SEC will scrutinize AI claims in all public statements, including filings, marketing

materials, and social media, equally. The agency will pursue violations regardless of whether investors suffered quantifiable financial harm; the misrepresentation itself violates antifraud provisions, and the SEC will seek both monetary penalties and undertakings requiring enhanced compliance procedures.

BOARD CONSIDERATION

Questions for Management:

- » What AI-related claims appear in our SEC filings, investor presentations, and marketing materials?
- » What documentation substantiates each claim about AI capabilities or business impact?
- » Who reviews and approves AI-related disclosures before publication?
- » What controls ensure consistency between technical reality and public statements?

B. Operating Companies: The Presto Automation Case

In January 2025, the SEC brought its [first AI washing enforcement action against a reporting company: Presto Automation, a restaurant technology firm.](#) The case marked a significant expansion from investment advisers to operating companies making AI-related disclosures to public shareholders.

The SEC alleged that [Presto misrepresented critical aspects of its flagship product, Presto Voice, which employed AI-assisted speech recognition.](#) Specifically, the company failed to disclose that its AI technology was owned and operated by a third party, thereby creating a false impression of proprietary technology. When Presto subsequently developed its own technology, the company allegedly made false claims about eliminating third-party dependence even as substantial third-party components remained integral. The SEC further

found that [the vast majority of drive-through orders required human intervention, contrary to the company's representations](#).

The Presto case establishes critical principles for boards. AI washing liability extends beyond affirmative misstatements to material omissions failing to disclose that AI technology is licensed rather than proprietary. Companies must accurately update AI disclosures as circumstances change. And the SEC will scrutinize not merely whether AI exists but [whether it functions as represented](#).

BOARD CONSIDERATION

Audit Committee Oversight:

- » Require quarterly verification that disclosures accurately reflect whether AI technology is proprietary, licensed, or hybrid.
- » Ensure disclosure controls include technical reviews confirming AI systems function as publicly represented.
- » Mandate updates to AI-related disclosures whenever material changes occur in technology architecture or capabilities.
- » Request that management maintain a documentation trail supporting all AI claims for potential regulatory inquiry.

C. Criminal Prosecution: Joonko, Nate, and Escalating Stakes

In June 2024, the SEC and DOJ filed parallel [civil](#) and [criminal](#) charges against Ilit Raz, founder of AI recruitment startup Joonko Diversity Inc., marking the first AI washing case involving criminal prosecution. Raz allegedly misrepresented that Joonko's platform utilized sophisticated AI technology when [an investigation revealed AI largely did not exist and the platform relied on manual processes](#).

In April 2025, the SEC and DOJ [jointly charged Albert Saniger](#), former CEO of Nate Inc., with [securities fraud and wire fraud](#) for allegedly [raising over \\$42 million by falsely claiming his mobile shopping application used AI](#) to autonomously complete online purchases. Investigation revealed that Nate relied heavily on teams of overseas contractors to manually process transactions that users believed were automated. [Notably, these were the first AI washing enforcement actions brought under the current administration](#), signaling that [AI fraud enforcement](#) has bipartisan support.

These criminal prosecutions signal heightened stakes. Where civil SEC actions result in monetary penalties, criminal convictions carry potential imprisonment. [The SEC's approach to individual liability in AI cases parallels its treatment of cybersecurity disclosure failures](#), examining whether individuals "knew or should have known" about misrepresentations. Management operating in good faith and taking reasonable steps to ensure accurate reporting will likely avoid personal liability, but the burden falls on executives and boards to implement robust compliance measures demonstrating that good faith.

D. FTC Enforcement and Consumer Protection

Enforcement is not limited to the SEC. In September 2024, the [Federal Trade Commission \(FTC\)](#) launched ["Operation AI Comply"](#) with five simultaneous enforcement actions, announcing that there is [no AI exemption from consumer protection law](#). In August 2025, the [FTC filed an action against Air AI](#), alleging the company marketed an agentic AI tool that could autonomously replace human sales staff while generating increased profits. Estimated consumer losses allegedly reached \$250,000 per affected business. Additionally, the [FTC issued an order prohibiting Workado from making misleading statements about its AI content detection capabilities](#).

For boards, the FTC dimension adds consumer-facing liability to the investor-facing risks posed by SEC enforcement. Companies making AI claims in marketing materials, product descriptions, and customer communications face regulatory exposure from multiple federal agencies, each applying distinct but overlapping antifraud frameworks.

E. The Surge in Private Shareholder Litigation

Perhaps the most significant development since early 2025 has been the explosion of private securities class actions targeting AI-related misrepresentations. [Securities class actions alleging AI misrepresentation increased by approximately 100% between 2023 and 2024](#). Through 2025, [51 AI-related securities class actions were filed](#), with the majority targeting technology companies.

The most prominent case involves Apple Inc. In June 2025, [shareholders filed a class action](#) alleging that Apple’s June 2024 Worldwide Developers Conference led the market to believe AI would be a key driver of the iPhone 16, when Apple allegedly had no functional prototype of the advanced Siri features being promoted. When Apple delayed Siri upgrades to 2026 and its AI progress proved more modest than projected, [Apple’s stock price lost nearly one-quarter of its value](#), approximately \$900 billion in market capitalization. [Apple has moved to dismiss the suit](#), arguing that plaintiffs presented no evidence Apple knew features would be significantly delayed and that the features were not significantly delayed in any case.

[Other significant private actions](#) include cases against [AppLovin Corporation](#) (alleging manipulative practices to inflate AI-driven ad performance metrics), Innodata Inc. (alleging advanced AI platform claims masked reliance on offshore manual labor), Oddity Tech (alleging “proprietary AI” was merely

a basic questionnaire), and [DocGo Inc.](#), where a March 2025 ruling in the Southern District of New York denied the company’s motion to dismiss, finding that allegations of AI capability misrepresentation and executive credential fraud were sufficiently pleaded. [Evolv Technologies faced claims that its AI-based weapons-detection product failed to perform as advertised](#), with public safety implications.

F. Director and Officer Liability for AI Misrepresentation

The SEC’s heightened enforcement focus creates significant personal liability risk for corporate leaders. The [“knew or should have known” standard](#) will examine whether individuals knew about misrepresentations and what actions they took to prevent misleading disclosures. Boards have a duty to implement oversight systems that enable them to know the truth about AI capabilities before claims are made publicly.

D&O insurance may not provide complete protection. Policies typically exclude coverage for fraudulent or intentional misrepresentation. If prosecutors or plaintiffs establish that directors approved AI-related disclosures without a reasonable basis to believe their accuracy, insurers may deny coverage. Even where coverage applies, the reputational damage from enforcement actions often exceeds financial penalties. As the AI insurance market bifurcates with specialist insurers creating affirmative AI coverage products while major carriers introduce broad exclusions, organizations without documented, measurable governance face growing coverage gaps.

The safe harbor lies in demonstrable governance. Directors who implement systematic verification of AI claims should require management certification of disclosure accuracy, engage independent auditors to validate AI capabilities, and document their oversight processes to establish reasonable steps that ensure

accurate reporting. These measures transform potential “should have known” liability into a demonstrable exercise of the duty of care.

IV. THE REGULATORY LANDSCAPE AND COMPLIANCE INADEQUACY

Current regulatory frameworks address AI washing reactively through enforcement rather than prevention, leaving boards exposed to reputational and legal liability that compliance programs alone cannot mitigate.

A. The EU AI Act and Global Standards

The [European Union’s AI Act, which entered into force on August 1, 2024](#), represents the first comprehensive legal framework governing AI systems. The Act employs risk-based regulation: unacceptable risk systems are prohibited, high-risk systems face extensive requirements, limited-risk systems require transparency disclosures, and minimal-risk systems face no obligations. Prohibited AI practices, including social scoring, manipulative subliminal techniques, and certain biometric categorization, became effective February 2, 2025, with full enforcement for high-risk AI systems taking effect in August 2026.

[High-risk AI systems](#), including those used in critical infrastructure, employment, and credit scoring, must implement data governance with bias mitigation, maintain comprehensive technical documentation, establish traceability systems, design for human oversight, and ensure appropriate accuracy and cybersecurity. [Noncompliance carries fines up to €35 million or 7% of worldwide annual turnover](#). General-purpose AI model providers face additional transparency obligations and copyright compliance requirements. These requirements

establish a transparency baseline that will influence global expectations even for U.S. companies.

Complementing the EU AI Act, [ISO/IEC 42001:2023](#) provides an international standard for AI Management Systems, offering a certifiable framework that organizations can use to demonstrate globally recognized governance benchmarks to regulators, investors, and customers. The [NIST Artificial Intelligence Risk Management Framework](#) (AI RMF 1.0) provides a voluntary, cross-sector framework designed to support and align AI risk management efforts and promote trustworthy AI systems in the United States National Institute of Standards and Technology (NIST), 2023. Together, these frameworks define an emerging consensus on what AI governance maturity requires, though none yet produce the quantitative, comparable scores needed for benchmarking across enterprises.

B. US Regulatory Developments and Institutional Responses

The United States lacks comprehensive AI regulation comparable to the EU Act, though the regulatory environment is rapidly evolving. In February 2025, the SEC rebranded its Crypto Assets and Cyber Unit as the CETU, explicitly tasking it with [combating AI-related fraud alongside cybersecurity and social-media-driven misconduct](#). At a March 2025 SEC Roundtable, Acting Chair Mark Uyeda stressed a “technology-neutral” approach, cautioning against overly prescriptive regulation while maintaining investor protection as paramount. At the Securities Enforcement Forum West in May 2025, [senior CETU officials reiterated that “rooting out” AI washing schemes is an immediate priority](#).

The SEC’s Division of Examinations incorporated [AI as a top priority in its 2026 Examination Priorities](#), released in November 2025. The Division signaled it will closely

examine companies' use of AI and automated technologies, scrutinizing whether related disclosures are accurate and whether firms have implemented adequate policies and procedures to monitor AI use. This examination-side focus complements enforcement, creating dual channels of regulatory scrutiny.

In addition, in 2025 alone, [1,208 AI-related bills were introduced across all 50 states, of which 145 were enacted into law](#). California's AB 2013, effective January 1, 2026, mandates that generative AI developers publish training data summaries, while SB 942 requires AI-generated content labeling. A December 2025 Executive Order sought "minimally burdensome" national standards to prevent state laws from obstructing innovation, creating ongoing tension between federal and state approaches.

C. Why Traditional Compliance Structures Fail

Despite this regulatory momentum, traditional corporate compliance structures prove inadequate for preventing AI washing because they fail to bridge the technical-legal-business divide. Legal departments understand disclosure requirements but lack the technical expertise to evaluate AI capabilities. IT departments understand technology but may not appreciate securities law implications. Marketing teams craft public messaging but may not comprehend technical limitations.

This organizational fragmentation creates accountability gaps where AI washing thrives. No single executive owns the complete picture of what AI systems exist, how sophisticated they truly are, what claims are made about them, and whether those claims are accurate. Boards lack metrics to evaluate management's AI representations or benchmark competitive positioning. Only [25% of organizations have fully implemented AI governance programs](#), and [just 27% of boards have formally incorporated AI governance into committee charters](#), revealing

a sharp gap between awareness and execution. The SEC's enforcement approach, which applies traditional antifraud provisions to AI claims, provides limited forward guidance on required AI disclosures or quality standards. Boards need proactive governance tools, not reactive compliance responses. The question is not whether regulators will act, but whether boards will have governance infrastructure in place when they do.

V. STANDARDIZED AI QUALITY METRICS: THE GOVERNANCE SOLUTION

Quantitative AI governance metrics function as governance assurance mechanisms comparable to Sarbanes-Oxley internal controls, providing boards with independent verification that management's AI claims rest on a substantiated foundation.

A. The Need for Board-Level AI Assurance Frameworks

The AI washing crisis reveals a fundamental governance gap: the absence of standardized, verifiable metrics for AI quality enabling board oversight. Just as financial statements provide boards with assurance about company finances, and ESG scores enable evaluation of sustainability practices, AI quality metrics would enable directors to verify management's AI claims based on objective, audited benchmarks.

Such metrics must satisfy several board requirements. They must be quantitative and normalized, enabling meaningful comparisons across organizations and against industry benchmarks. They must be independently verifiable through audit, not merely self-reported. They must assess AI comprehensively

across dimensions. Boards should care about strategic alignment, governance maturity, technical robustness, responsible AI practices, and organizational adaptability. And they must correlate with strategic outcomes: enterprise value creation, competitive positioning, and risk exposure.

Several frameworks are emerging to address this need. The AIQ™ Score (patent pending), developed by AIQA Global, LLC, represents one comprehensive approach to quantitative AI governance assessment. Other governance rating methodologies may develop as the market matures, whether from consulting firms, standards bodies, or technology providers building AI governance platforms. The IDC MarketScape has already begun evaluating unified AI governance platforms, and organizations such as the International Organization for Standardization (ISO) and NIST continue to refine governance frameworks. What matters for boards is not which specific rating system prevails, but that quantitative, independently verifiable AI governance measurement becomes standard practice.

B. The Five Dimensions of AI Governance Quality

The [AIQ Score™](#) illustrates what a comprehensive quantitative governance framework looks like in practice. The methodology assesses 250 proprietary data points across five weighted dimensions of governance maturity:

DIMENSION	WEIGHT	EXAMPLE INDICATORS
Strategic Alignment	20%	Executive commitment, AI investment, strategy disclosure
Governance & Accountability	30%	Board reporting, audit cadence, policy documentation
Technical Robustness	25%	Model validation, security testing, bias audits, machine-learning ops
Responsible AI & Compliance	15%	Bias mitigation, explainability, regulatory alignment
Adaptability & Education	10%	Incident learning, retraining frequency, feedback loops

Dimension weights reflect the relative contribution of each area to overall governance quality, informed by risk exposure analysis, regulatory emphasis, and actuarial relevance. Governance & Accountability carries the highest weight because governance failures are the primary driver of AI-related loss events. Weights are reviewed annually and may be adjusted for sector-specific assessments.

This five-dimension approach moves beyond the traditional compliance checklist. Strategic Alignment assesses whether AI is genuinely embedded in business strategy or merely a marketing claim, which is directly relevant to AI washing prevention. Technical Robustness evaluates whether the AI systems actually work as described, including model validation, security testing, and bias audits. Responsible AI & Compliance measures alignment with the EU AI Act, NIST AI RMF 1.0, and emerging disclosure requirements. Adaptability & Education captures whether organizations have the feedback loops and incident response protocols to maintain governance quality over time.

C. The 0-200 Scoring Scale

The AIQ Score™ uses a 0-200 scale modeled on two proven precedents: the standard IQ scale used in psychometric assessment and the Ocean Tomo Patent Ratings® scale used for the NYSE-listed OT300® Index. [The 200-point range provides sufficient granularity to differentiate governance maturity across performance bands:](#)

0-40	Nascent	Minimal formal AI governance; ad hoc practices
40-70	Considering	Beginning to explore AI governance frameworks
70-100	Developing	Foundational governance in place; significant gaps remain
100-130	Established	Mature governance with documented practices and oversight
130-160	Advanced	Advanced governance exceeding baseline requirements
160-200	Leading	Exemplary governance; industry-leading practices across all dimensions

Scores undergo cross-validation, inter-rater reliability testing, and statistical correlation analysis. The methodology supports privacy-preserving assessment that allows proprietary model details and training data that need not be exposed to external evaluators. [Organizations scoring 115 or above \(within the Established band\) may qualify for AIQA Certification](#), representing independent validation of AI governance quality.

D. Independent Verification and Board Assurance

Whether using the AIQ Score™ or comparable methodologies that may emerge, the critical element for boards is independent verification through structured audit processes. Organizations submit quantitative surveys and documentation, which independent analysts

validate through model inspection, metadata review, and audit trail examination. The methodology resembles financial audits where companies make representations, independent auditors verify claims through testing and evidence review before certifying results.

Verified governance scores provide boards and investors with assurance that AI-related claims have been independently assessed. Companies achieving high scores may qualify for preferential AI liability insurance, a significant consideration as the AI insurance market bifurcates between specialist affirmative AI coverage and broad exclusions by major carriers. The emerging underwriting standard across affirmative AI coverage requires three elements: bounded use-case definitions, measurable performance KPIs, and evidence of ongoing monitoring. Quantitative governance scores are designed to provide precisely this evidence.

For boards, quantitative AI governance metrics function as governance infrastructure. Directors can require baseline governance scores before approving major AI initiatives, mandate quarterly score reporting to audit committees, benchmark their company’s AI maturity against competitors, and tie executive compensation to score maintenance or improvement. These mechanisms transform AI governance from abstract oversight to quantified accountability.

E. Capital Markets and Index Applications

Quantitative AI governance scores also enable capital markets applications that extend beyond individual company governance. AIQA Global is developing the AIQA 100™ Opportunity Index, a rules-based equity index that selects 100 U.S.-listed companies based on proprietary AIQ Scores and an AI adoption opportunity assessment. The index applies the same construction discipline used by AIQA’s founders to create the NYSE-listed Ocean Tomo 300® Patent Index (OTPAT), the first major equity index based on intellectual property (IP) value.

Research products include sector-level benchmarking reports, competitive governance analyses, portfolio-level aggregated assessments for asset managers and PE firms, and data licensing for investment screening and underwriting. As the market for quantitative AI governance measurement matures, whether through AIQA or competing providers, these applications will enable investors, insurers, and regulators to screen, price, and benchmark AI governance quality at enterprise and portfolio scale.

VI. THE CIPO AS GOVERNANCE INTEGRATOR

The CIPO uniquely bridges technical AI validation and legal disclosure requirements, positioning this role as the essential integrator for boards seeking proactive AI washing prevention.

A. Why AI Quality Oversight Belongs with the CIPO

The [CIPO role emerged as intangible assets came to dominate the economy](#). Pioneer CIPOs at Microsoft, GE, and Philips recognized that IP required strategic oversight transcending traditional legal department management. Reporting directly to the CEO, the CIPO provides centralized oversight of all IP activities, including portfolio administration, litigation management, licensing strategy, M&A considerations, and IP monetization.

As AI becomes the dominant form of intangible capital, the CIPO role naturally expands to encompass AI asset management. Several factors make the CIPO the optimal executive owner of AI governance implementation. First, the CIPO bridges the [technical-legal divide](#) that confounds traditional legal counsel. CIPOs understand both the technology underlying

AI systems and the legal frameworks governing disclosure. Second, the CIPO's strategic focus on value creation aligns with the emphasis that quantitative governance frameworks place on measurable business impact. Third, the CIPO's C-suite positioning provides necessary authority for cross-functional coordination. Fourth, the CIPO's focus on both protection and monetization of intangible assets aligns with a dual emphasis on governance and value creation.

In organizations that have not yet established a CIPO role, oversight responsibility may fall to the Chief Technology Officer, Chief Information Officer, General Counsel, or a newly designated Chief AI Officer (CAIO). Regardless of title, the critical requirement is that a single executive should own the complete picture of AI capabilities, claims, and governance, bridging the organizational fragmentation that enables AI washing.

B. Integration with Board Committee Structure

AI governance metrics managed by the CIPO or equivalent integrate naturally into board committee structures, providing each committee with relevant AI quality information.

Audit Committee: Receives quarterly reporting on governance and compliance scores, focusing on disclosure controls and substantiation of AI-related statements in SEC filings. Reviews documentation supporting AI claims and evaluates the adequacy of internal controls around AI representations.

Risk Committee: Monitors technical robustness and responsible AI scores, assessing governance maturity and operational risk exposure. Evaluates AI-related risks, including bias, privacy violations, cybersecurity vulnerabilities, and regulatory compliance gaps.

Technology/Innovation Committee: Reviews strategic alignment and adaptability scores, evaluating competitive positioning and return on AI investments. Benchmarks the company’s AI maturity against industry peers and assesses strategic AI initiatives.

Full Board: Receives a comprehensive composite score reporting quarterly, analogous to financial performance reviews. Uses scores to evaluate management’s AI strategy execution and benchmark progress against competitors.

C. Implementation Framework

AI governance implementation under CIPO leadership follows a structured framework.

Phase 1 – AI Asset Inventory: Document all AI systems in development or deployment, identifying ownership responsibility, public claims made about each system, and evidence supporting those claims.

Phase 2 – Initial Assessment: Coordinate cross-functional evaluation of AI governance maturity, technical robustness, compliance status, and strategic alignment to generate a baseline governance score.

Phase 3 – Improvement Roadmap: Develop prioritized investments in AI governance infrastructure, IP protection, bias monitoring, and measurement systems that drive score improvements aligned with corporate strategy.

Phase 4 – Ongoing Monitoring: Track AI governance metrics quarterly, report to the board on AI asset quality, and ensure external AI claims remain consistent with verified capabilities.

Phase 5 – External Deployment: Leverage verified governance scores in investor relations, include certification in annual reports and ESG disclosures, and qualify for preferential AI liability insurance.

VII. PRACTICAL STEPS FOR BOARD ADOPTION

Boards should implement the following framework to establish robust AI governance and prevent AI washing liability.

Step 1: Mandate Management Certification

Require the CIPO or equivalent executive to certify quarterly that all AI-related disclosures in SEC filings, earnings calls, investor presentations, and marketing materials are factually substantiated and supported by documentation. This certification creates personal accountability analogous to SOX financial certifications and establishes the “reasonable steps” safe harbor against enforcement.

Step 2: Integrate AI Governance Metrics into Enterprise Risk Dashboards

Include AI governance score trends in regular board reporting alongside cybersecurity metrics, ESG performance, and financial KPIs. Establish threshold scores requiring board notification if performance deteriorates. Track competitive positioning by benchmarking against industry peer scores.

Step 3: Establish AI Governance Board Oversight

Assign clear committee responsibility for AI oversight, formally incorporating AI governance into existing committee charters. Ensure that at least one director on the responsible committee possesses AI literacy or a technical background. Consider engaging periodic third-party briefings on AI developments and governance best practices. Update board education programs to include AI governance topics.

Step 4: Tie Compensation to AI Integrity

Link executive compensation to maintenance or improvement of AI governance score thresholds. Include AI governance metrics in annual CEO and CIPO performance evaluations. Create alignment between incentives, ensuring executives prioritize genuine AI excellence over inflated marketing claims.

Step 5: Report AI Governance Scores in Public Disclosures

Enhance transparency and investor trust by publicly disclosing verified AI governance metrics in ESG reports or annual reports. Include an independent certification demonstrating a third-party audit. Use verified scores as competitive differentiation in capital raising and investor communications. This public commitment creates reputational incentive for accuracy while demonstrating governance maturity to regulators.

Step 6: Prepare for Multi-Agency Exposure

Recognize that AI-related claims face scrutiny from multiple enforcement bodies, such as the SEC, DOJ, FTC, and state attorneys general, as well as private shareholder litigation. Ensure that compliance procedures address not only securities disclosure but also consumer protection, employment law, and sector-specific regulatory requirements. Incorporate potential parallel proceedings into incident-response playbooks.

CONCLUSION: FROM LIABILITY TO COMPETITIVE ADVANTAGE

AI washing is no longer a speculative concern; it is a recognized regulatory and reputational risk reaching the boardroom. Investors, regulators, and insurers increasingly demand assurance that AI claims reflect auditable facts rather than marketing optimism. For directors and executives, this requires treating AI quality with the same governance discipline as financial reporting.

The stakes are significant. Failed AI claims damage market credibility and shareholder value. Misleading disclosures trigger SEC enforcement, shareholder litigation, and potential criminal prosecution. Directors face personal liability under [the “knew or should have known” standard](#) if they approve AI-related disclosures without a reasonable basis to believe their accuracy. The reputational damage from enforcement actions often exceeds financial penalties, making prevention essential to fiduciary duty.

The enforcement landscape has accelerated dramatically. The SEC’s CETU has designated AI washing as an immediate priority. The FTC’s Operation AI Comply has extended enforcement to consumer-facing claims. Private shareholder litigation has doubled year-over-year, with high-profile targets including some of the world’s most valuable companies. The question for boards is no longer whether AI governance matters, but whether their governance infrastructure will withstand the scrutiny that is already here.

The adoption of standardized, quantitative AI governance metrics, whether through the AIQ™ Score framework, comparable methodologies that emerge, or internally developed governance measurement, offers boards the clearest path forward. Such metrics transform AI governance from reactive compliance to proactive assurance, functioning as governance infrastructure comparable to SOX internal controls. The framework enables directors to fulfill their fiduciary duties of care and loyalty by implementing systematic oversight of AI quality and accuracy.

But quantitative governance metrics provide more than defensive protection against liability; they create competitive advantage. Companies with verified AI excellence can credibly differentiate themselves in capital markets. Independently audited scores enable legitimate innovators to separate from companies making inflated claims. This credible signaling ensures capital flows to genuine AI capabilities rather than skilled marketing. Organizations achieving high governance scores position themselves for preferential AI liability insurance, reducing risk management costs while demonstrating governance maturity.

The board’s role is decisive. Directors who implement AI governance frameworks now position their organizations as trusted AI leaders rather than suspected AI washers. Those continuing to rely on unverified management assertions face mounting enforcement risk, competitive disadvantage as peers adopt standardized metrics, and potential exclusion from capital markets demanding AI transparency. [In an era where intangible assets comprise 92% of market value and AI dominates intangible capital](#), governance must evolve to measure what matters most: the quality and integrity of AI itself.

The convergence of enforcement pressure, regulatory development, and investor scrutiny creates a decisive moment for board leadership. The choice, ultimately, is between verified AI excellence and unsupported AI assertions. Only the former represents a sustainable strategy for boards committed to fiduciary responsibility, market credibility, and competitive advantage.

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