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Artificial Intelligence in South African Financial Sector: What the FSCA–PA Report Reveals About IP, Trade Secrets, and Smart Governance

1 General Summary: AI's Impact on South African Financial Services

Artificial Intelligence (AI) is rapidly transforming South Africa's financial sector, driving innovation, operational efficiency, and new customer experiences. The recent joint report by the Financial Sector Conduct Authority (FSCA) and the Prudential Authority (PA) published in November 2025 provides the first comprehensive snapshot of AI adoption, investment intentions, and governance across banking, insurance, payments, and investment institutions.

Key findings include:

- Banking and payments institutions lead AI adoption, with over half already deploying AI solutions.
- Investment in AI is accelerating, especially among banks, with many planning multi-million rand commitments.
- Top benefits cited are improved data analytics, productivity, and fraud detection.
- Major risks include data privacy, cybersecurity, and ethical governance.
- The sector faces regulatory and talent constraints, but robust governance frameworks and ethical standards are emerging to guide responsible AI deployment.

2 Intellectual Property: Relevant but Not Central in the FSCA–PA Report

While the report acknowledges intellectual property rights laws as a regulatory constraint to AI adoption, it ranks IP below data protection, cyber security, and consumer protection in terms of perceived impact. Only 39% of survey respondents identified IP rights as a barrier—significant, but not the top concern.

"Regulatory constraints, N=220: Data protection and privacy laws (82%), Joint Standard – Cyber security and cyber resilience (54%), Market conduct legislation (48%), The Consumer Protection Act (47%), Intellectual property rights laws (39%)…"

The report's focus is on compliance with privacy laws (POPIA, GDPR), consumer protection, and ethical governance. IP is mentioned in the context of regulatory compliance, but there is little exploration of how AI may create, use, or risk infringing intellectual property, whether patents, copyright, or trade marks. For businesses deploying AI, this means that while IP is on the regulatory radar, it is not yet central to the sector's risk management discourse. However, it should be.

3 The Missing Piece: Trade Secrets and Know-How Governance

One notable gap in the FSCA–PA report is the absence of discussion on trade secrets and know-how. The report's data protection analysis is almost exclusively focused on personal data i.e. customer information, privacy compliance, and consumer trust. There is no explicit mention of trade secret loss, know-how leakage, or proprietary business information risks in the context of AI adoption.

This is a critical oversight. As financial institutions increasingly rely on AI for decision-making, process automation, and customer engagement, the risk of inadvertently exposing confidential algorithms, business logic, or strategic data grows. Trade secrets and know-how are often the most valuable assets in an AI-driven business, and their protection requires governance structures that go beyond personal data compliance.

4 SmartAI IP Readiness: Building Governance for the AI Revolution

The lack of focus on trade secrets and know-how (and other firms of IP) in the FSCA–PA report highlights the need for proactive governance frameworks. This is where the SmartAI IP Readiness Scorecard and the resources at https://www.smartaiip.adams.africa become invaluable.

How can SmartAI IP help?

- Comprehensive risk assessment: The SmartAI IP Readiness Scorecard helps businesses identify gaps in their IP, data, and trade secret governance before deploying AI solutions.
- Tailored governance structures: Our advisory service guides organisations in implementing policies and controls that protect not only personal data, but also proprietary algorithms, business processes, strategic know-how and other intellectual property.
- Mitigation strategies: We provide actionable recommendations to safeguard trade secrets, manage third-party risks, and ensure compliance with evolving regulatory standards.
- Education and awareness: Through seminars, templates, and practical guidance, SmartAI IP empowers teams to understand the full spectrum of IP risks in the AI era.

Engaging with SmartAI IP means your business will assist making your business compliant, as well as resilient and future-ready.

Conclusion

The FSCA–PA report is a milestone for South African financial services, but it leaves important questions about intellectual property and trade secret governance unanswered. As AI adoption accelerates, businesses must look beyond personal data protection and embrace holistic governance frameworks. The SmartAI IP Readiness Scorecard and advisory platform offer the tools and expertise needed to navigate this new landscape ensuring your organisation's innovation is protected, compliant, and sustainable.

For more information or to assess your AI governance readiness, visit https://www.smartaiip.adams.africa or contact the Adams & Adams SmartAI IP team.

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