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2026 TRENDS FOR TECHNOLOGY TRANSACTIONS

January 28, 2026

AGENDA

1. Managed Services
2. Agentic AI
3. Cloud Computing Models
4. IP Risks in AI Training
5. Carve-Out M&A
6. Data Privacy and Security
7. Cloud & Data Center Resilience
8. AI Export Controls
9. Quantum Computing
10. Emerging Tech Providers

01

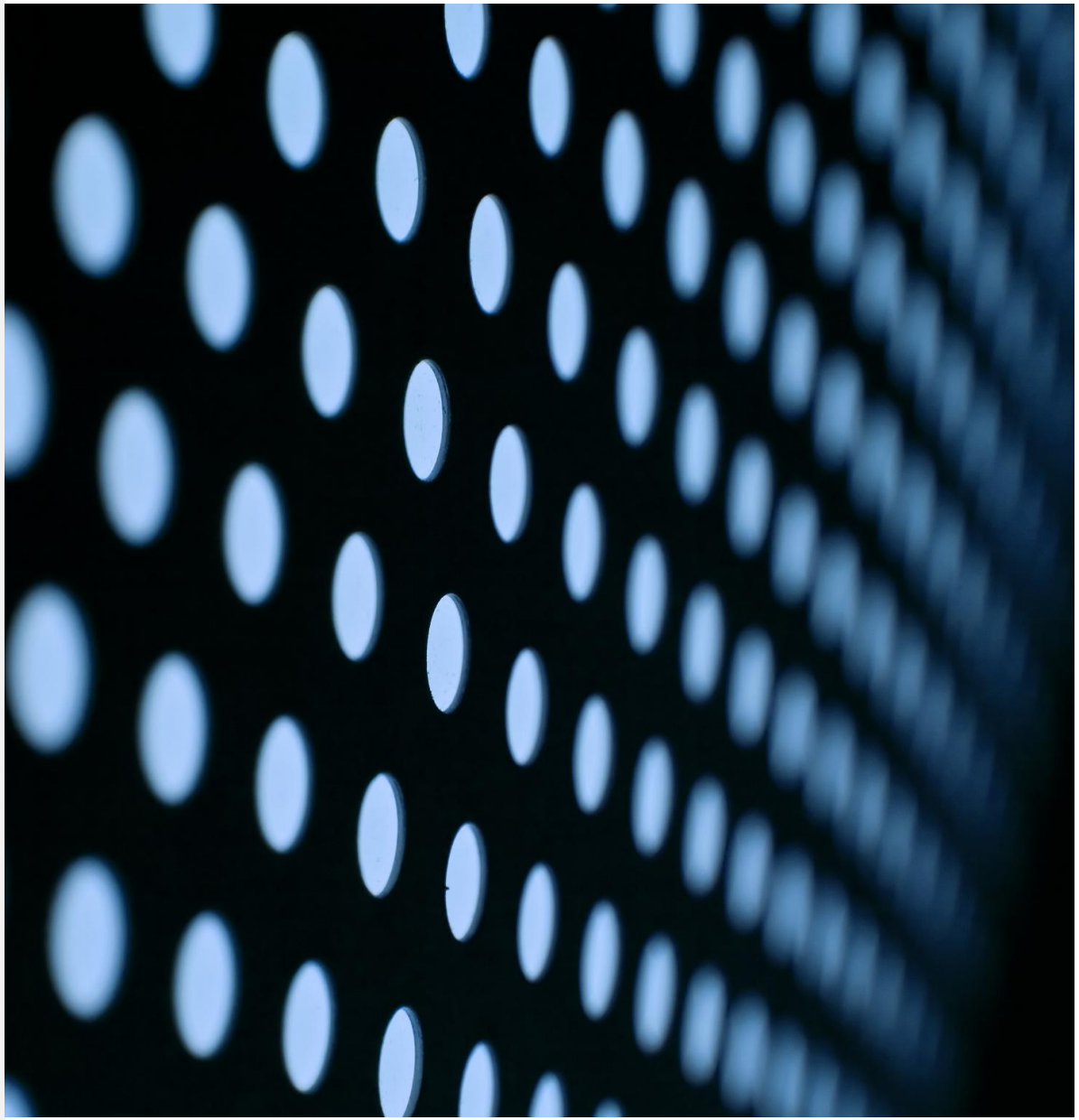
MANAGED SERVICES

THE TRENDING MANAGED SERVICES DEAL

- Driven by extensive **AI transformation**
- **Enterprise-level** scope spanning many “towers”
- Projected **savings over 30%** beginning in 1st year
- **Long contract term** to cover up-front AI investments

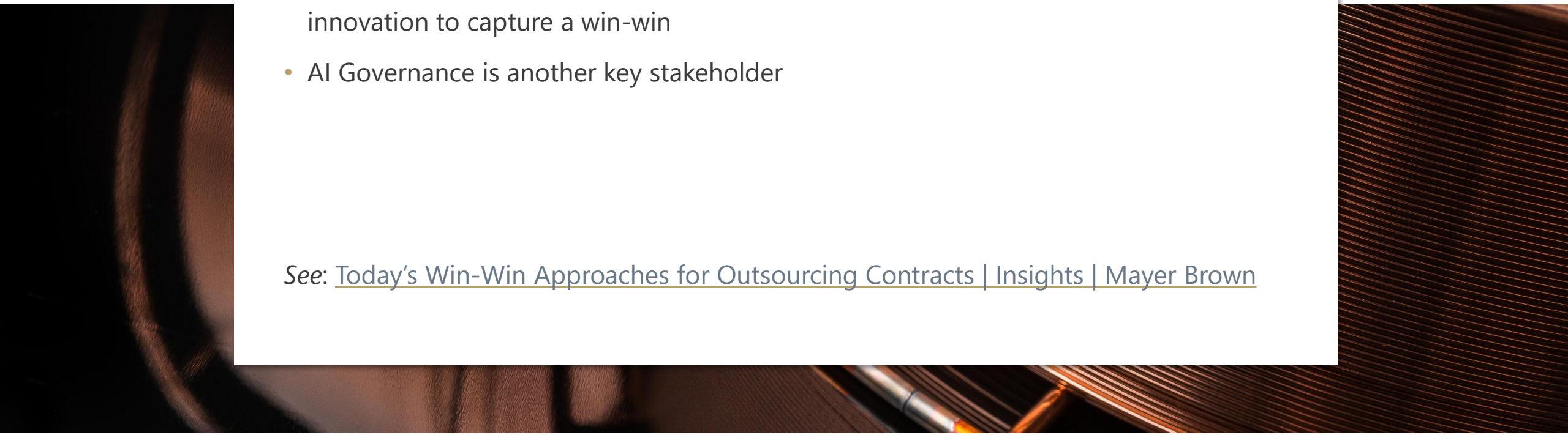
CHANGES IN CONTRACT PROVISIONS

- **Services defined as the work to be done** instead of doing what the customer's people were doing
- **Service levels measure business outcomes** instead of the quality of human effort
- **Pricing based on customer's business volumes** instead of the provider's volume of FTEs and other inputs
- **Compliance** with customer's enterprise policies, such as:
  - Approved products and project plans
  - Transparency and control (with "humans in the loop")
  - Protections against hallucinations, bias, data leakage, model drift, violations of law, and other AI risks
  - Clear path to continued use of the AI solutions

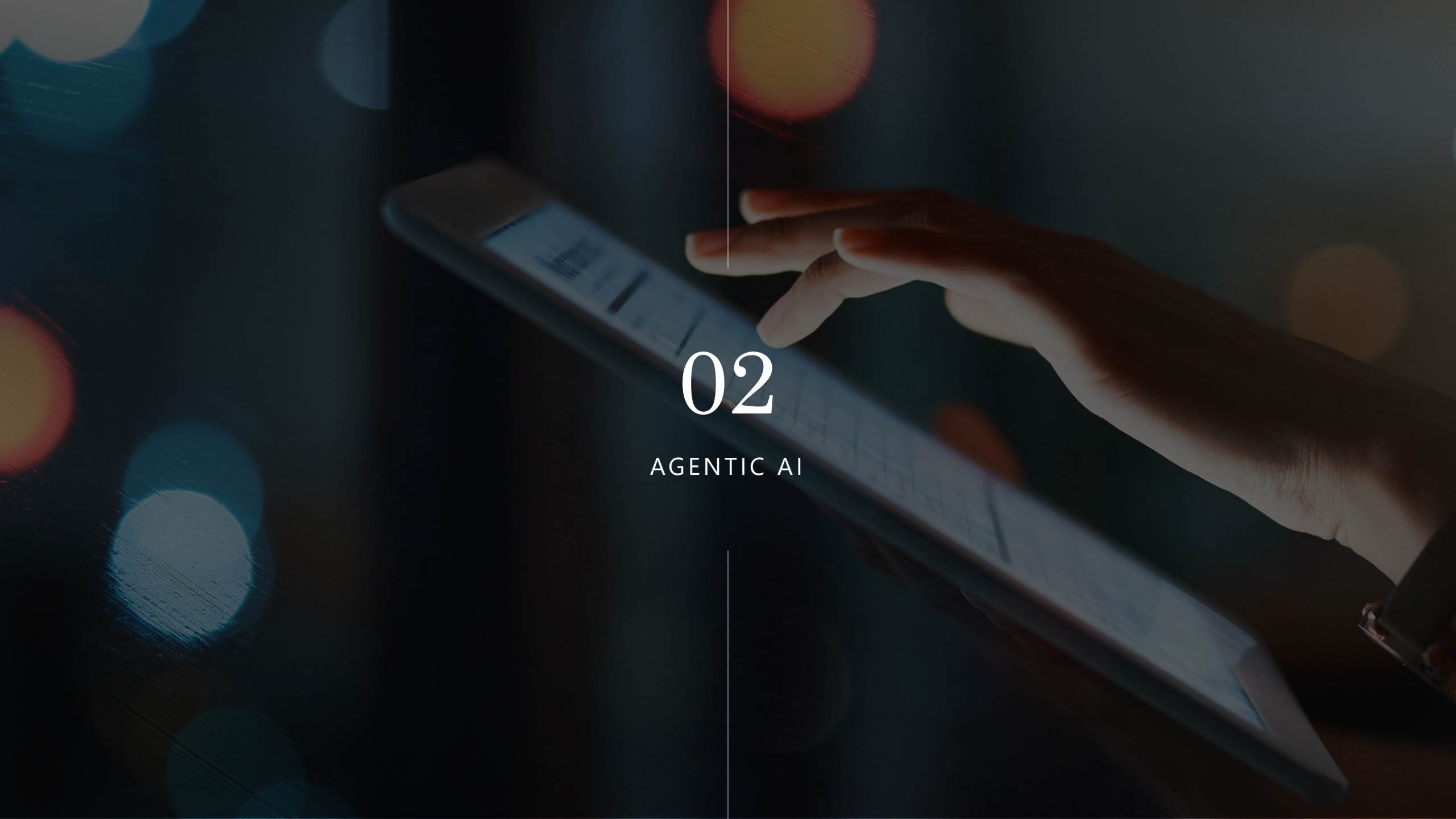


TAKEAWAYS

- Managed services deals are growing more complex and strategic
- Scope, performance, price and other contract terms will require legal drafting and innovation to capture a win-win
- AI Governance is another key stakeholder



See: Today's Win-Win Approaches for Outsourcing Contracts | Insights | Mayer Brown



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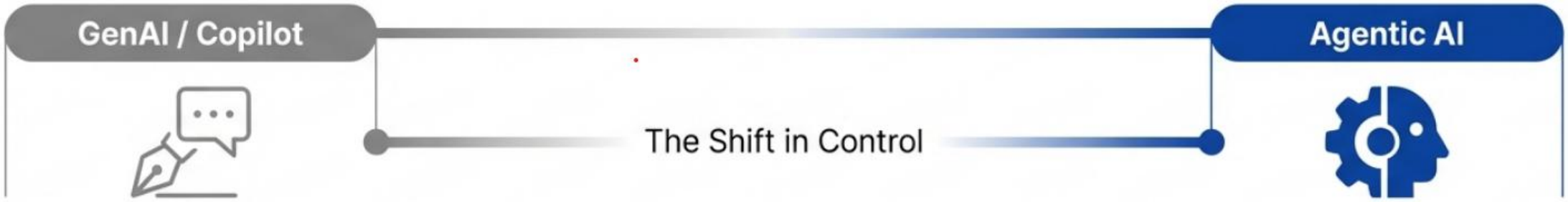
AGENTIC AI

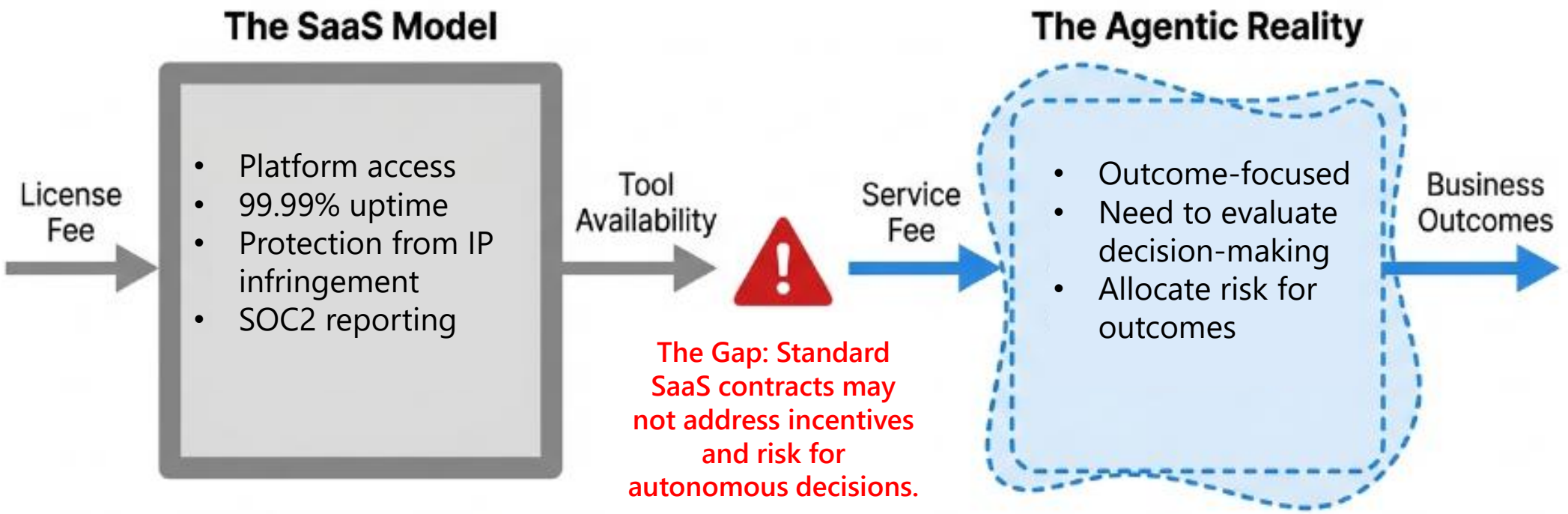
THE TREND: FROM "CO-PILOT" TO “AGENT"



Passive Tool
Suggests content.
Human-in-the-Loop (HITL).

Autonomous Agent
Executes tasks.
Human-out-the-loop

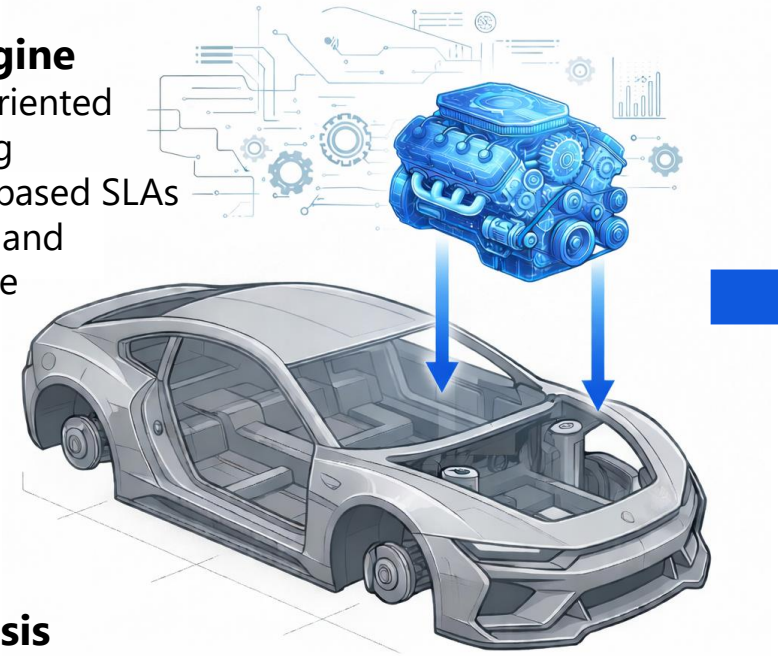
THE GAP: PROCURING 'LABOR' WITH 'SOFTWARE' AGREEMENTS



THE SOLUTION: SERVICE-ORIENTED CONTRACTING APPROACHES

Services Engine

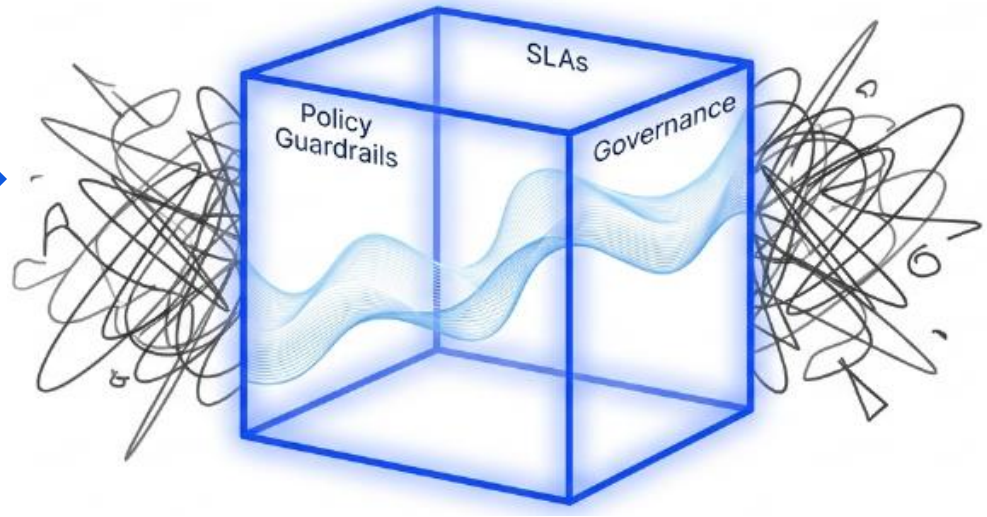
- Services-oriented contracting
- Outcome-based SLAs
- Guardrails and governance



SaaS Chassis

- Subscription model
- Scalability
- Platform delivery

Defensible Box



Neither "pro-buyer" or "pro-seller". By defining guardrails and commitments, both parties understand allocation of risk.

03

CLOUD COMPUTING MODELS

MULTI-CLOUD AND HYBRID AS DEFAULT ARCHITECTURE

What Is Happening?

The rapid rise of multi-cloud, hybrid cloud and neo-clouds is now deliberate, not accidental

- Over 85% of companies are expected to use hybrid/multicloud strategies (*Gartner*)
- Major hyperscalers are launching multi-cloud interoperability services and network promises to support private links and faster connectivity between clouds (*AWS and Google private links*)

Why Customers Care

- Vendor concentration risks
- Cost reduction and predictability
- Performance and AI optimization
- Regulatory and security pressure

Key Contract Provisions

- Interoperability and portability
- Cross-provider responsibility gaps
- Termination alignment
- Pricing and volume commitments

AI IS EMBEDDED EVERYWHERE – AND CONTRACTS ARE LAGGING

What Is Happening?

AI is no longer a standalone service; now, it is embedded by default at the infrastructure layer

- 50% of cloud compute resources are predicted to be devoted to AI by 2029, up from less than 10% today (*Gartner*)
- Many customers do not know ***when*** AI is being introduced, ***how*** it is trained, or ***what data it touches***

Why Customers Care

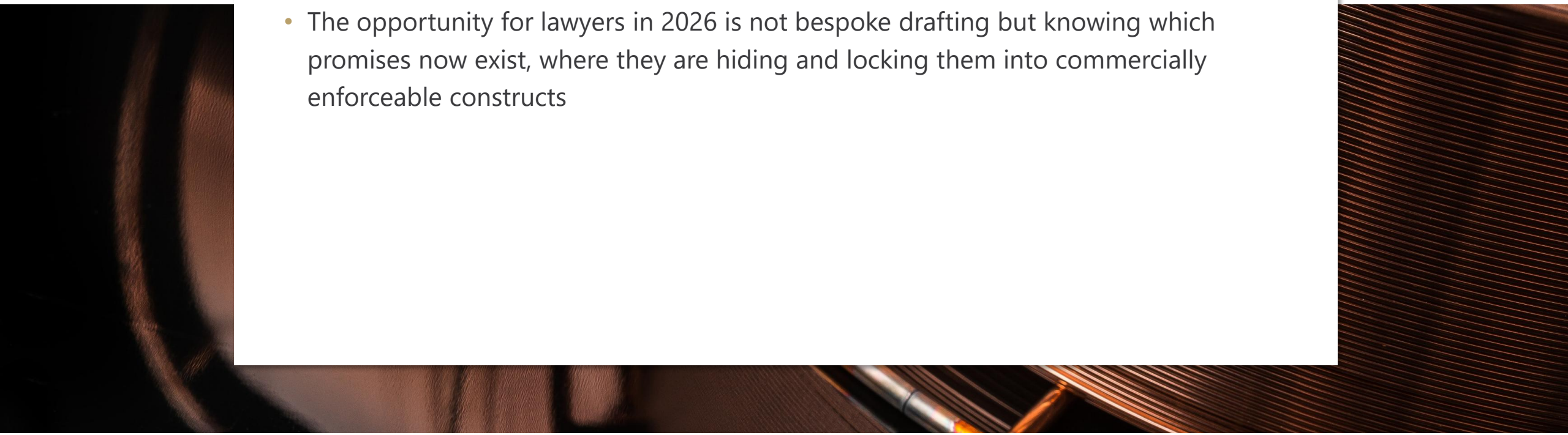
- IP leakage
- Regulatory exposure
- Loss of control over proprietary data
- Reputational risk

Key Contract Provisions

- Notice and control
- Training restrictions
- IP allocation
- AI governance

TAKEAWAYS

- Negotiate contracts that translate architecture diagrams into enforceable rights and are exit-ready and AI-aware
- The opportunity for lawyers in 2026 is not bespoke drafting but knowing which promises now exist, where they are hiding and locking them into commercially enforceable constructs



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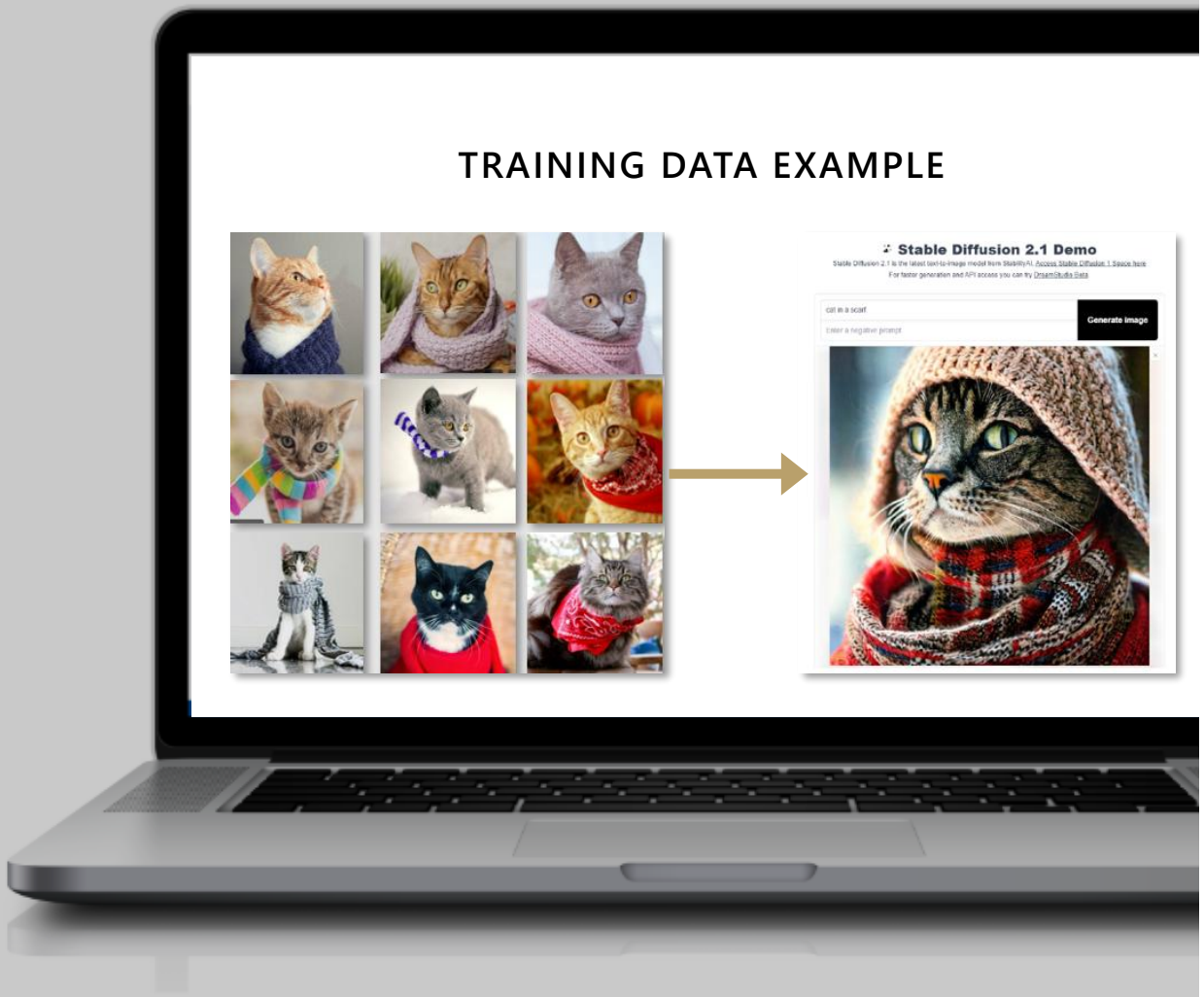
IP RISKS IN AI TRAINING



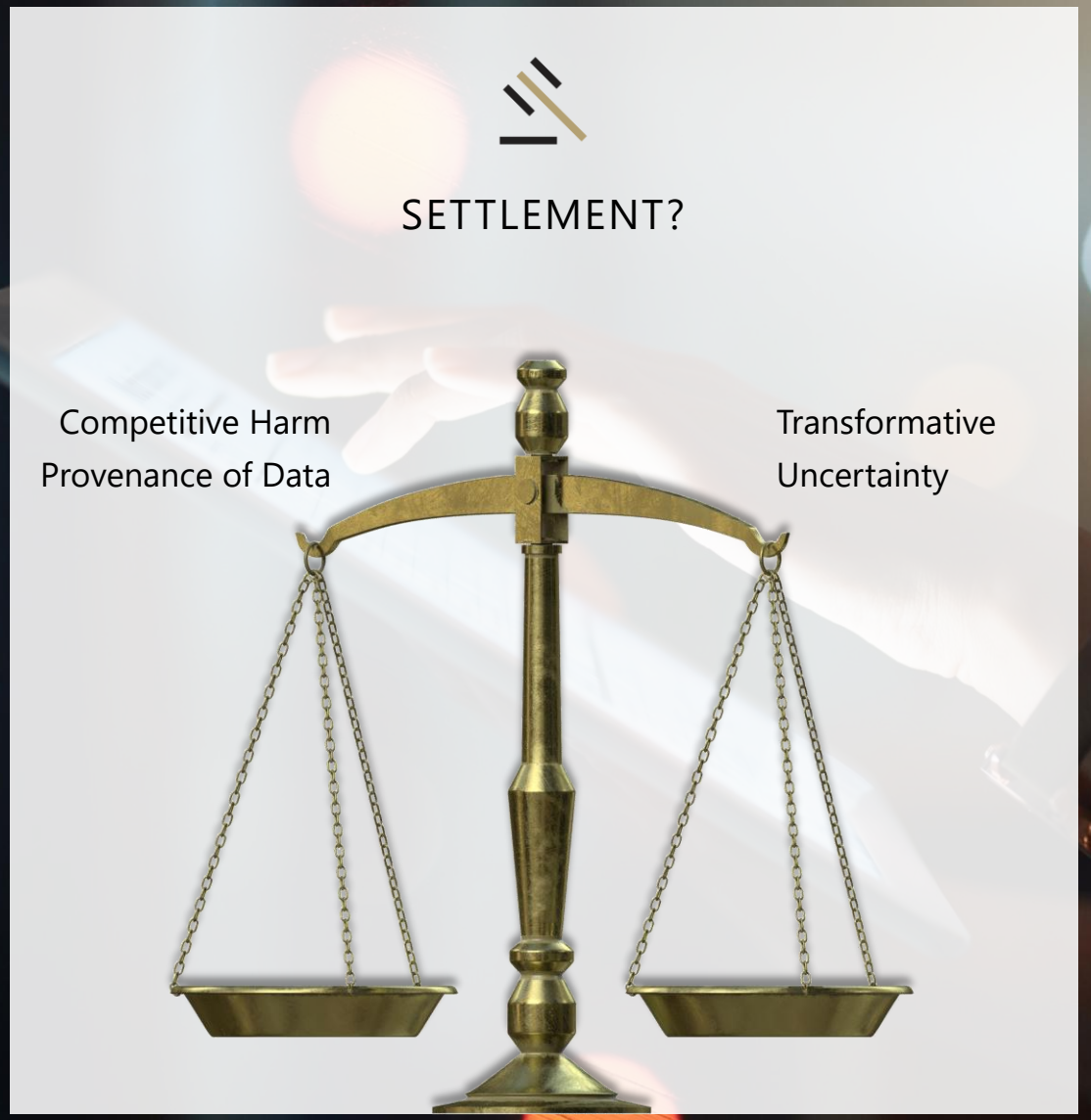
THE PRIMARY ISSUE – IS AI TRAINING FAIR USE?

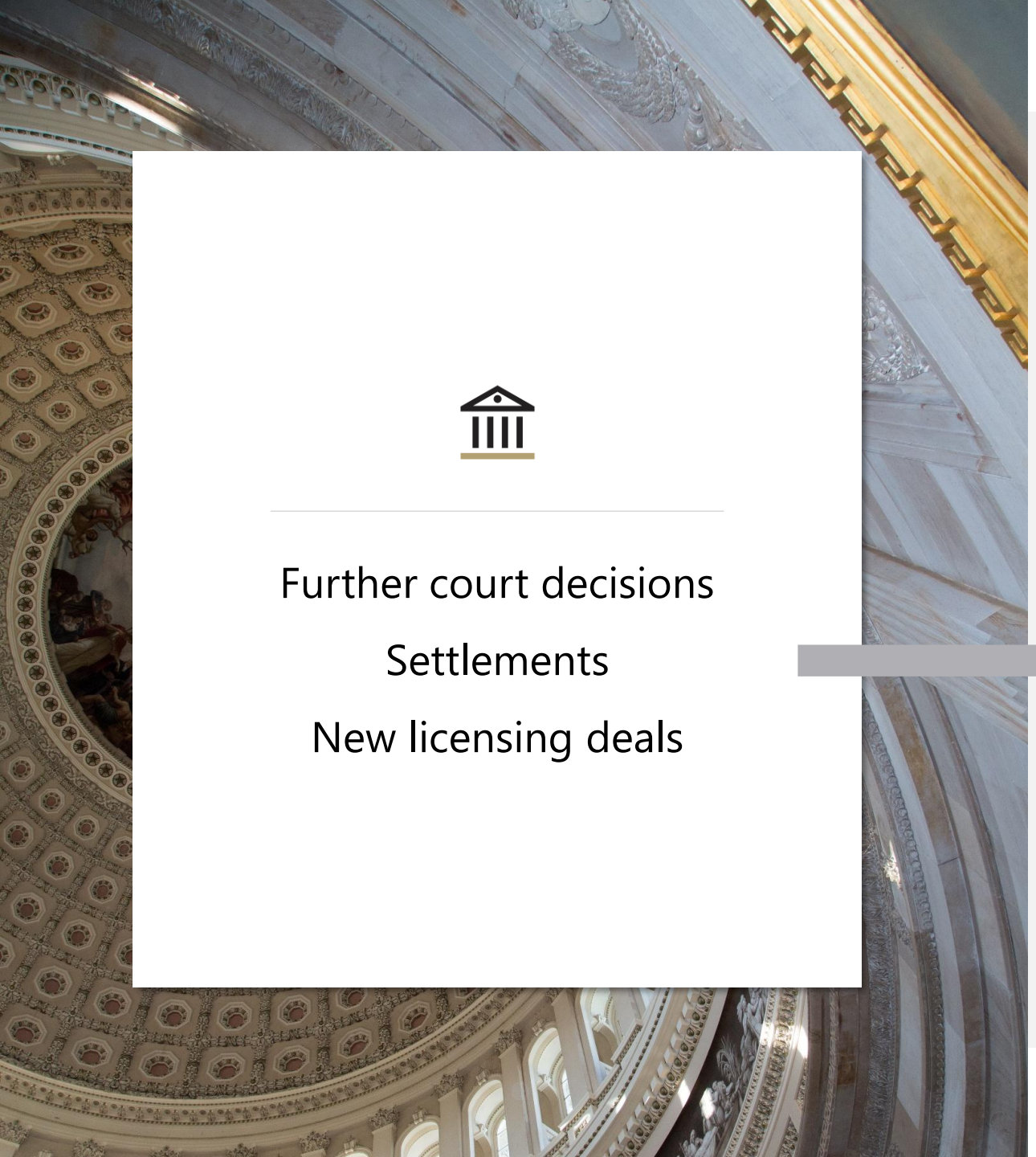
When an AI model provider (or a user refining the model) trains that model using copyrighted works (such as newspaper articles, music, or photographs), does the necessary copying constitute fair use under 17 USC 107?

- If it **is not** fair use, model providers (or users) may be subject to copyright infringement claims
- If it **is** fair use, no license is required

WHAT WE LEARNED IN 2025

- US courts may look askance at training data that was **not lawfully obtained** (even if the underlying use might be considered fair use)
- Arguments on **competitive harm** and free-riding will be paramount
- Courts appear amenable to the argument that AI models are **transformative**, a big advantage in any fair use analysis
- Even in YEAR 5 of training data cases, there is still a lot of **uncertainty**
- **Settlements** are going to put commercial pressure on all parties





Further court decisions

Settlements

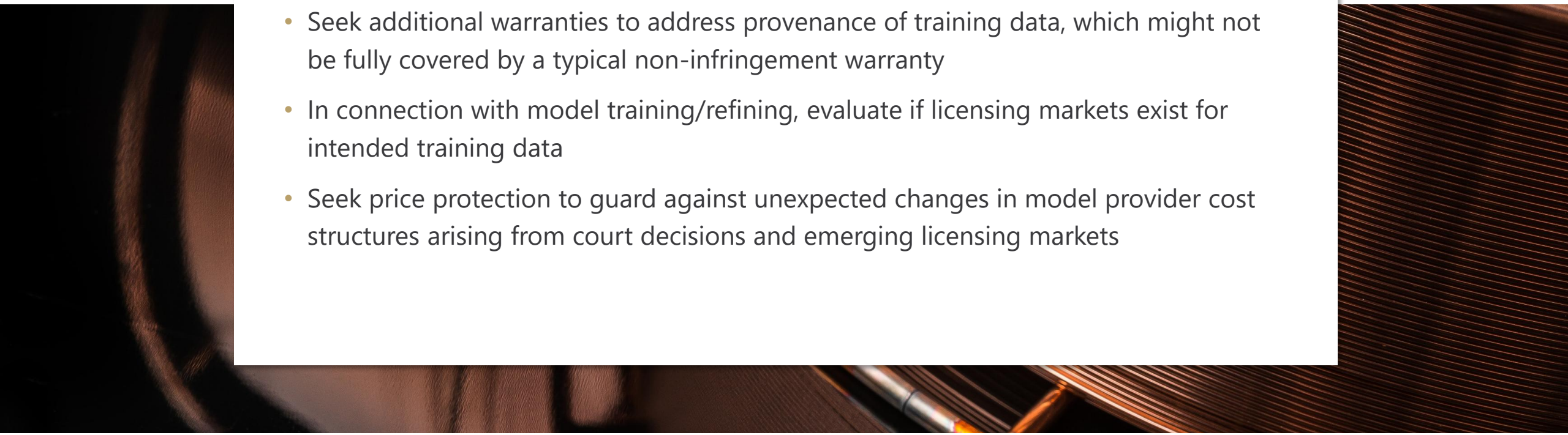
New licensing deals

WHAT'S COMING IN 2026

We still have at least several years of developments to come.

TAKEAWAYS

- Update generative AI policies based on 2025 developments, such as how model providers are evaluated
- Seek additional warranties to address provenance of training data, which might not be fully covered by a typical non-infringement warranty
- In connection with model training/refining, evaluate if licensing markets exist for intended training data
- Seek price protection to guard against unexpected changes in model provider cost structures arising from court decisions and emerging licensing markets



05

CARVE-OUT M&A

WHY TECHNOLOGY AND OPERATIONAL SEPARATION MATTERS MORE THAN EVER

Corporates are accelerating “portfolio surgery” through carve-outs and divestitures

Private equity is leaning into carve-outs as a core deployment strategy

Financing sources are underwriting separation risk, not ignoring it

As a result, execution — especially technology separation — is moving earlier in the deal lifecycle

SEPARATION IS NOW A FRONT-END DEAL ISSUE

Separation planning increasingly informs price, structure, and timing

Technology and shared services are often the longest path to Day 1 readiness

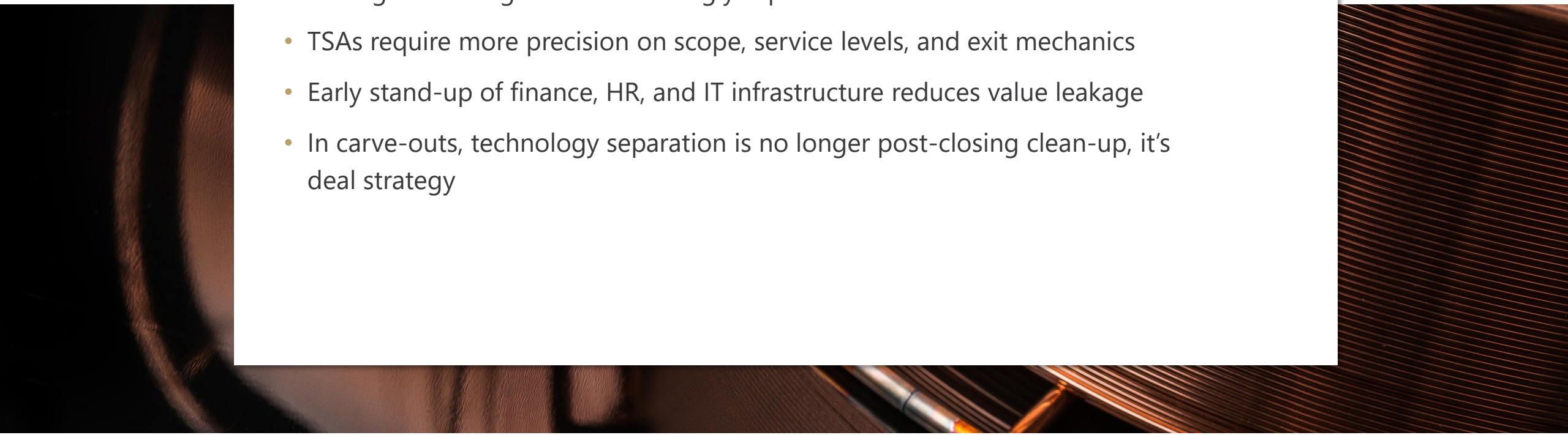
Buyers differentiate on speed and certainty, not just headline value

TSAs are treated as negotiated economic and risk-allocation tools — not boilerplate

TAKEAWAYS

WHY THIS MATTERS TO DEAL LAWYERS:

- Pre-sign tech diligence is increasingly separation-focused
- TSAs require more precision on scope, service levels, and exit mechanics
- Early stand-up of finance, HR, and IT infrastructure reduces value leakage
- In carve-outs, technology separation is no longer post-closing clean-up, it's deal strategy



06

DATA PRIVACY AND SECURITY

U.S. Department of Justice provisions pertaining to preventing access to U.S. Sensitive personal data and government-related data by countries of concern or covered persons ("DOJ rules")

Effective April 8, 2025

Government-related data or Bulk U.S. Sensitive personal data

VENDOR AGREEMENTS
(e.g., SaaS, cloud-service agreements)

EMPLOYMENT AGREEMENTS
(e.g., with a U.S. company's foreign staff located in a country of concern or with a CEO who otherwise qualifies as a covered person)

INVESTMENT AGREEMENTS
(e.g., covered person gaining majority interest in real estate or U.S. Legal entity with access to data)

DATA BROKERAGE (SALE/LICENSE)

RESTRICTED TRANSACTIONS

DATA BROKERAGE (SALE/LICENSE)

COUNTRIES OF CONCERN/ COVERED PERSONS

- Comply with CISA security requirements
- Implement data compliance program
- Audit U.S. person's compliance
- Recordkeeping

OTHER FOREIGN COUNTRIES

- Contract prohibiting onward transfer to countries of concern or covered persons
- Report known/suspect violations of contract

TAKEAWAYS

UNDERSTAND THE DATA INVOLVED IN THE TRANSACTION

Evaluate Data Processed	Calculate Bulk Thresholds (100-100,000 depending on data)

UNDERSTAND WHERE THE DATA FLOWS AND MAY BE ACCESSED

Sanctioned Country	Other Foreign Country

CONSIDER CONTRACTUAL PROVISIONS TO AVOID TRIGGERING DOJ REQUIREMENTS AND/OR ADDRESS ONWARD TRANSFERS

Assess if Data Brokerage, Vendor, Employment or Investment Contract	Prepare Relevant Provision

07

CLOUD AND DATA CENTER RESILIENCE

FREQUENCY OF DATA CENTER OUTAGES

IMPACT OF DATA CENTER OUTAGES

DATA CENTER OUTAGES IN 2025

REUTERS

Amazon says AWS cloud service back to normal after outage disrupts businesses worldwide

October 21, 2025

Amazon.com cloud service returned to normal operations on Monday afternoon, the company said, after an internet outage that caused global turmoil among thousands of sites.

CNBC

Azure outage: Microsoft still working on fix, says recovery expected in several hours

October 29, 2025

Microsoft users reported outages for Azure and 365 services a week after many customers of Amazon Web Services suffered hours of downtime.

REUTERS

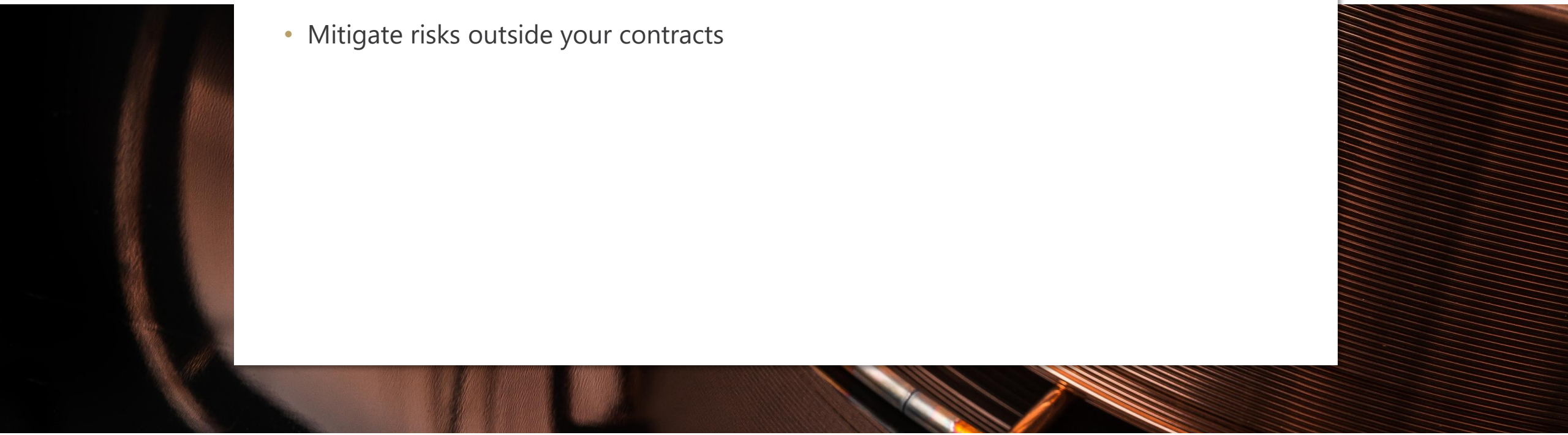
Global futures reopen after exchange operator CME suffers multi-hour disruption

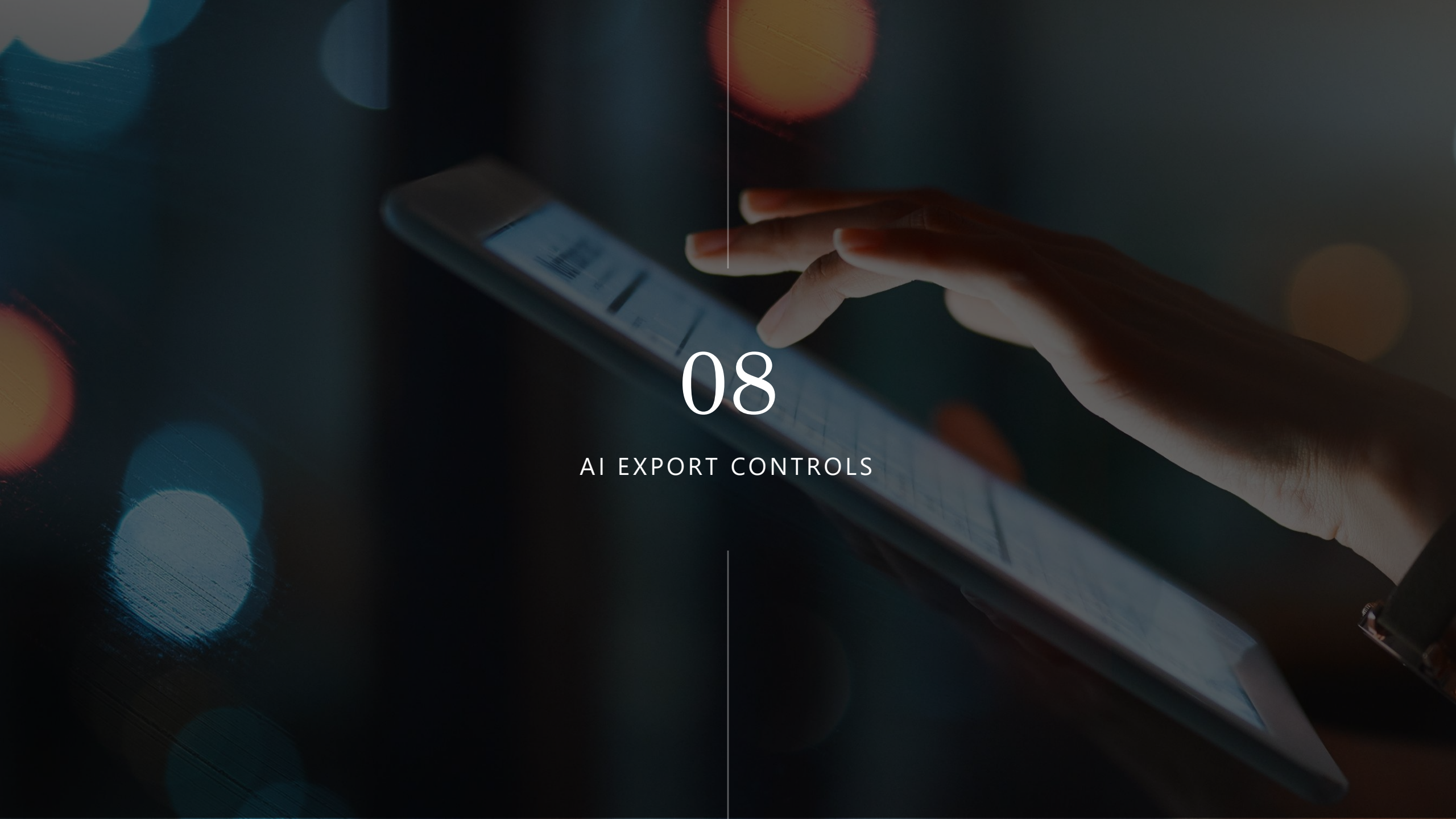
November 29, 2025

Global futures markets were disrupted for several hours on Friday after CME Group, the world's largest exchange operator, suffered one of its longest outages in years, halting trading across stocks, bonds, commodities and currencies.

TAKEAWAYS

- Push for meaningful consequences for provider failures
- Focus on business continuity and disaster recovery
- Mitigate risks outside your contracts





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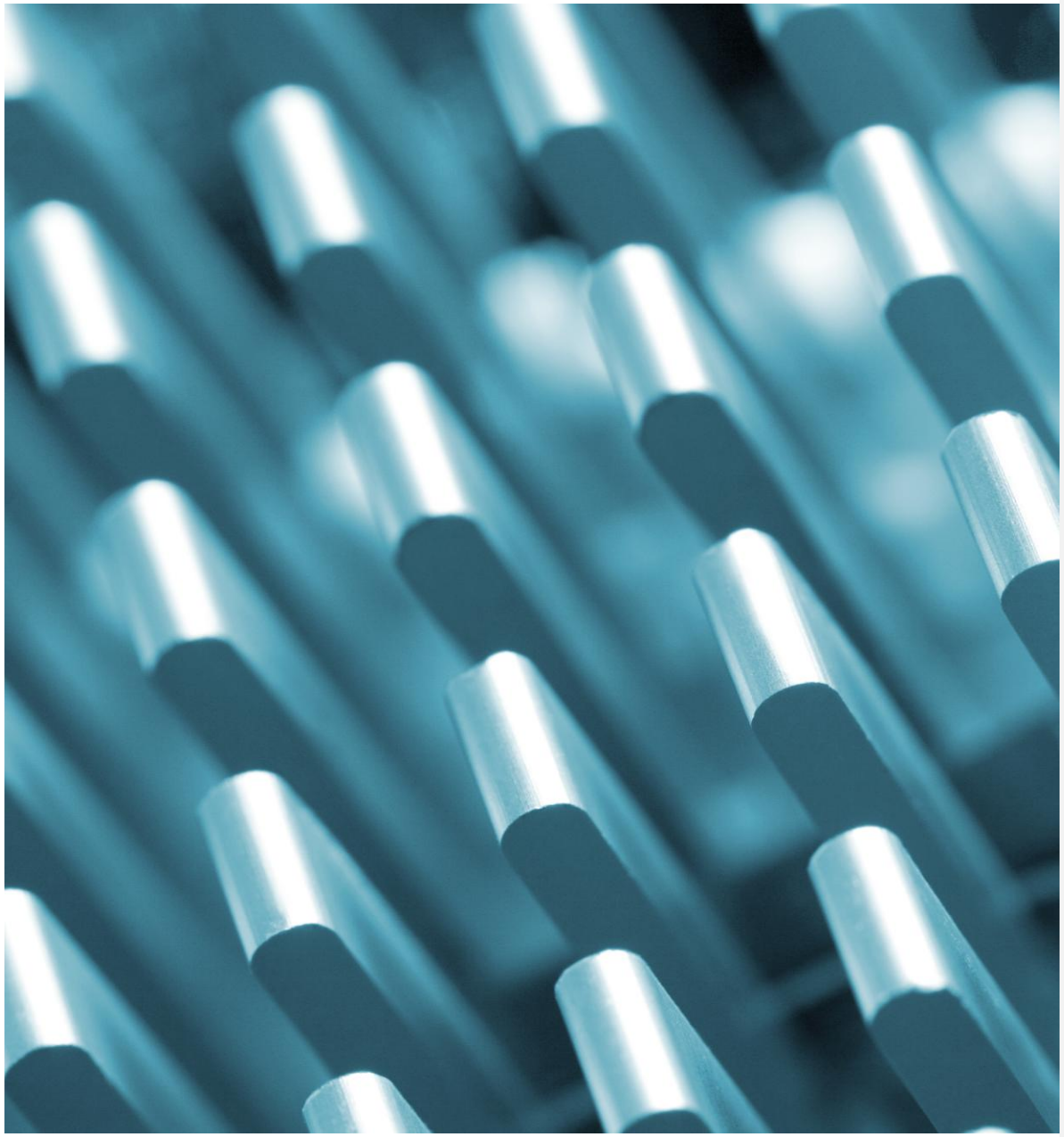
AI EXPORT CONTROLS

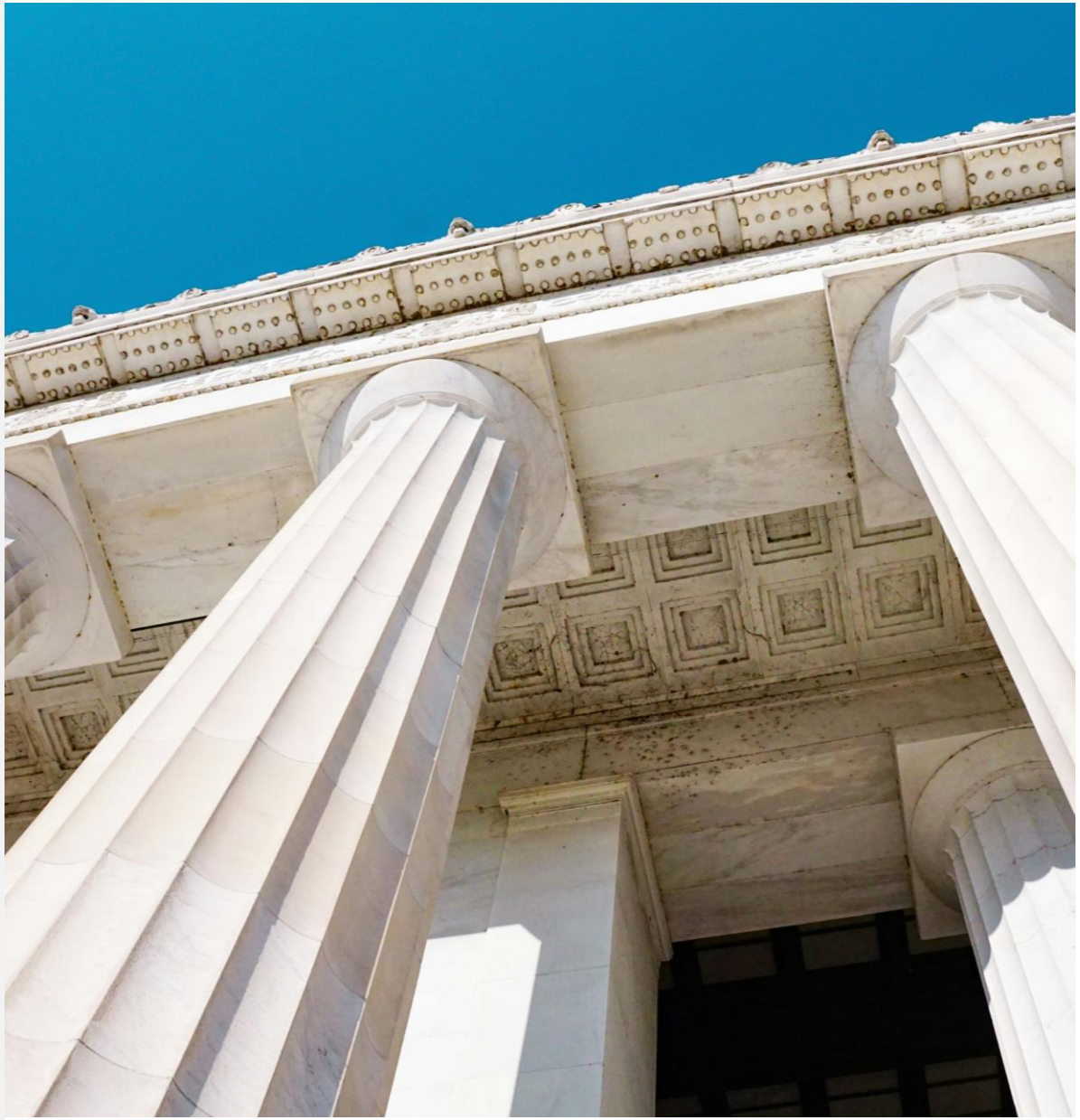


EXPORT CONTROLS ON "DUAL-USE" TECHNOLOGY

- Cross-border transfer of xPUs, other sensitive tech, encrypted software
- International engineering collaboration
- "End use" restrictions for U.S. entities
- Financing with reason to know a violation may occur

LAW & POLICY DEVELOPMENTS

- Policy pronouncements on AI and China remain fluid
- New 25% tariff on imports of xPUs when not destined for US market (not just China)
- Significant congressional attention
  - Remote Access Act would make AI-as-a-Service a regulated export
- Further entity-specific controls expected



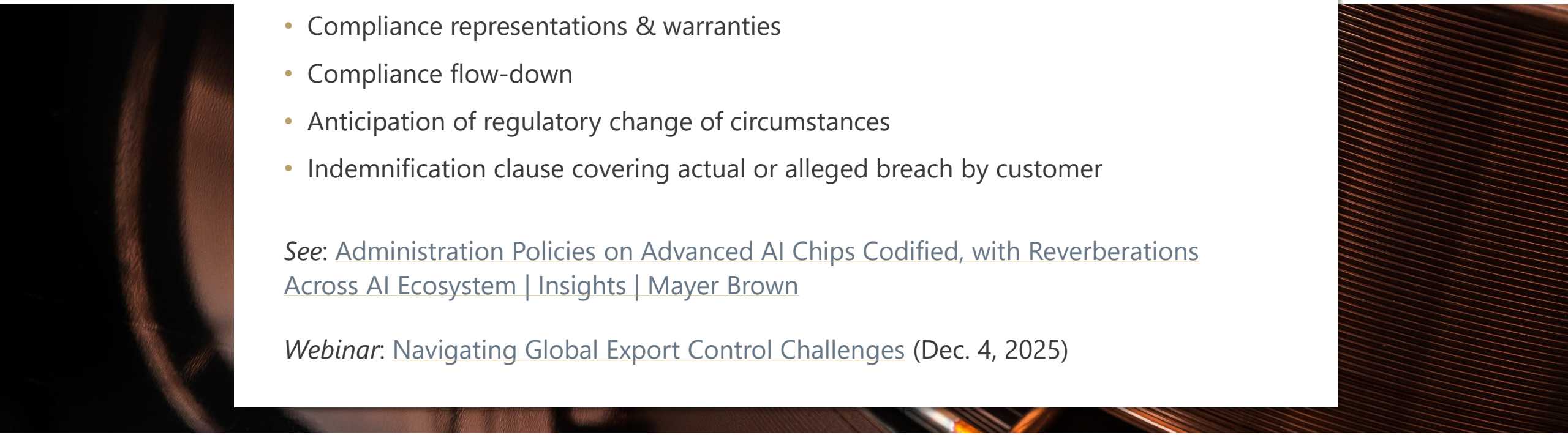
TAKEAWAYS

TRENDING CONTRACT CONSIDERATIONS:

- Business partner due diligence
- Compliance representations & warranties
- Compliance flow-down
- Anticipation of regulatory change of circumstances
- Indemnification clause covering actual or alleged breach by customer

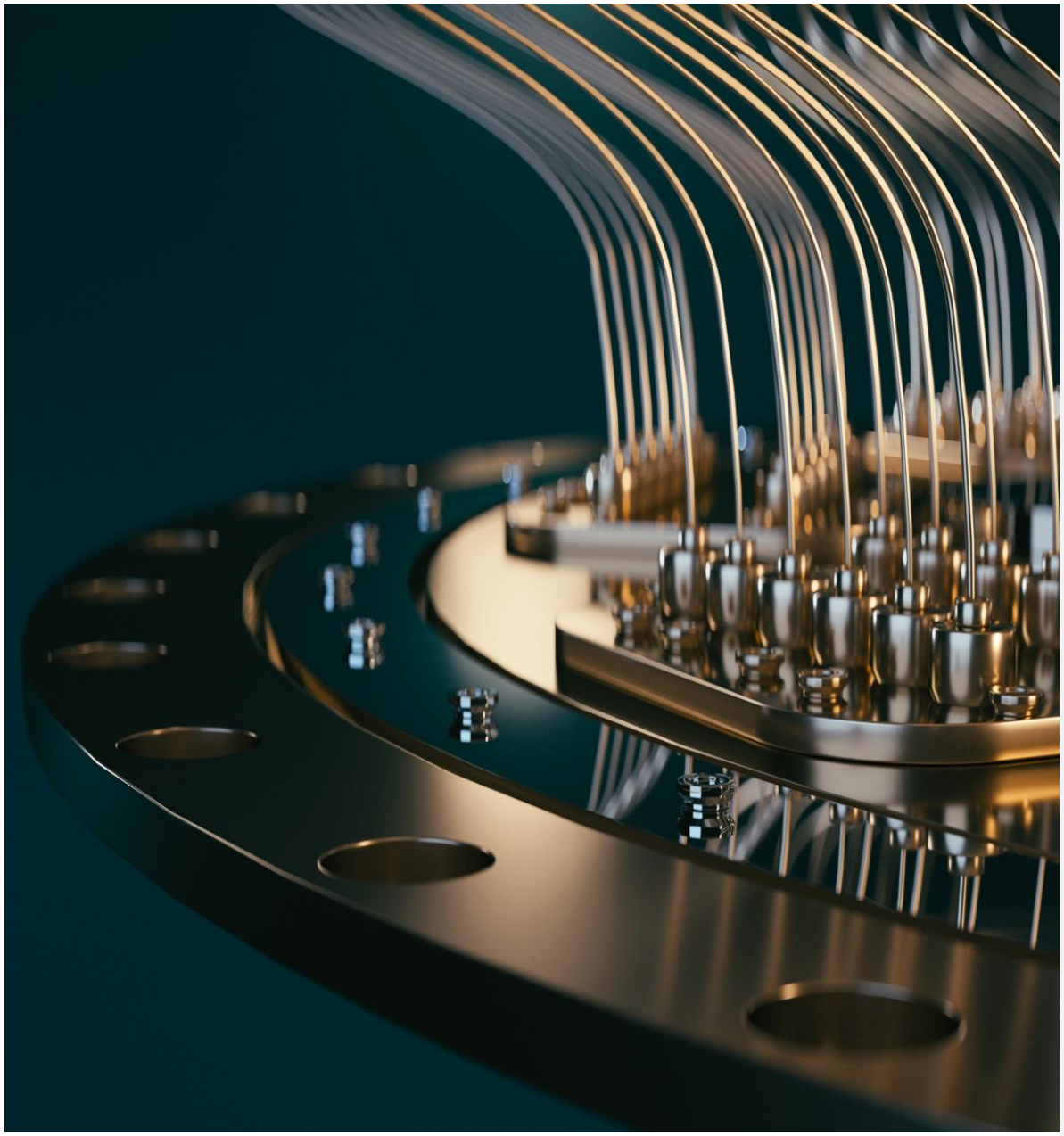
See: Administration Policies on Advanced AI Chips Codified, with Reverberations Across AI Ecosystem | Insights | Mayer Brown

Webinar: Navigating Global Export Control Challenges (Dec. 4, 2025)



09

QUANTUM COMPUTING

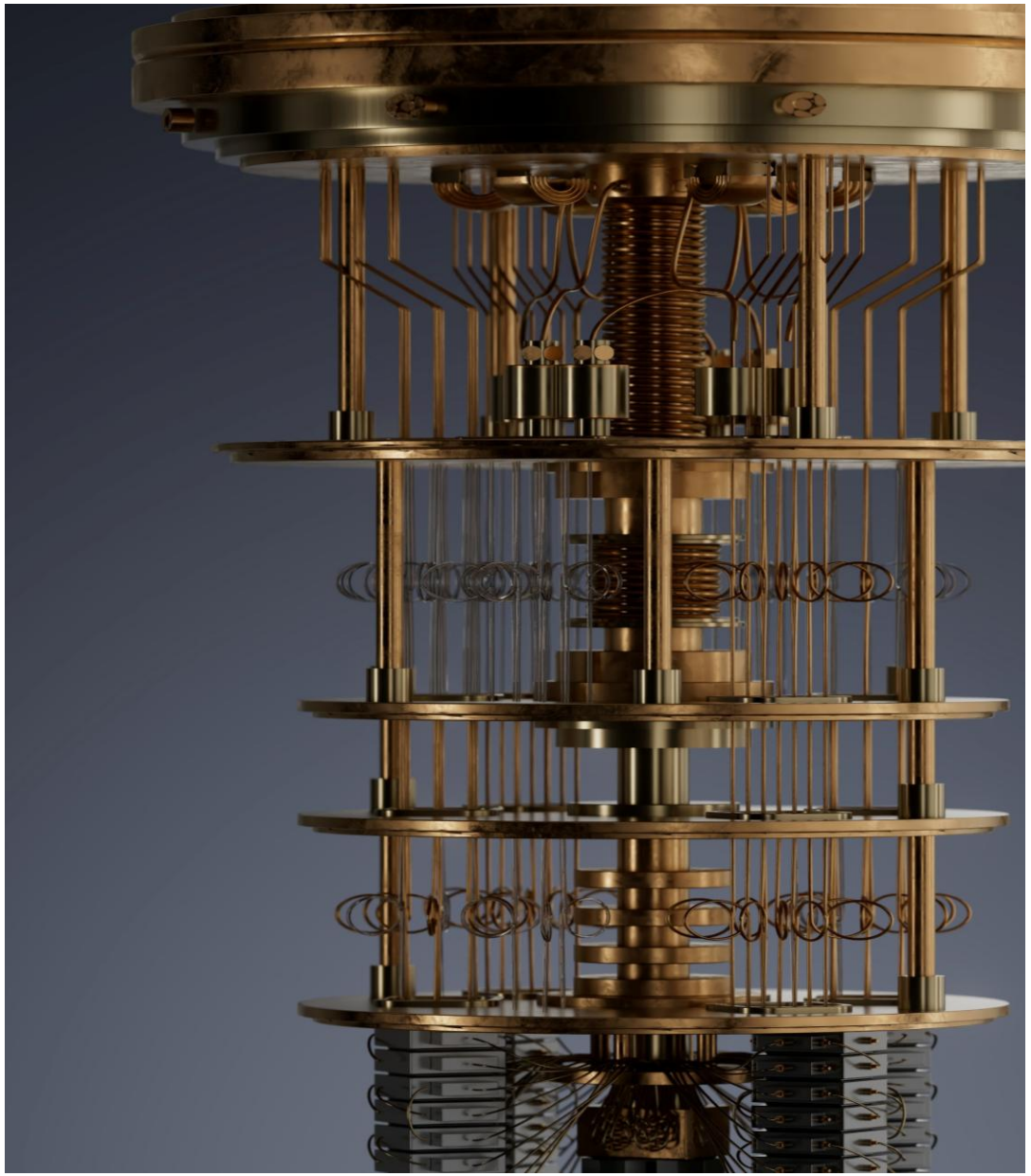


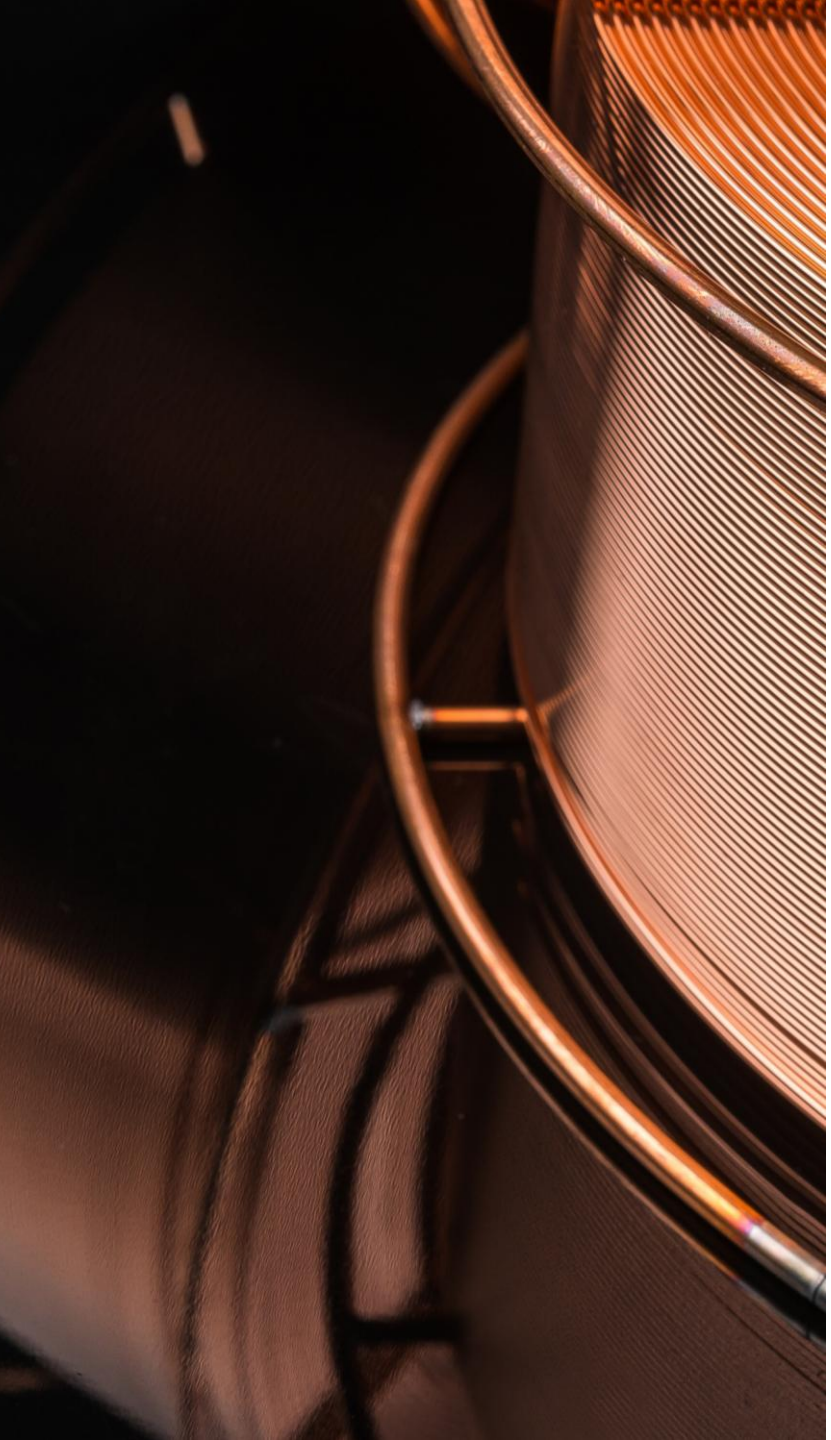
WHAT IS QUANTUM COMPUTING

- Computing which uses the quantum properties of light or subatomic particles to perform calculations based on “qubits”
  - Unlike normal “bits” in a computer (1 or 0), “qubits” can probabilistically exist in multiple states simultaneously
  - Accurately controlling the interactions of qubits allows calculations to occur in parallel
  - A mere 100-qubit computer can simultaneously represent 2100 states, which is more than all supercomputers on Earth combined
  - Expected to have transformational impact on cybersecurity, financial modelling, pharmaceutical development, cloud computing, and materials science
- Current annual industry revenue is ~$1b, but estimated by McKinsey to grow to ~$100b by 2035

CRYPTOGRAPHY – THREATS AND OPPORTUNITIES

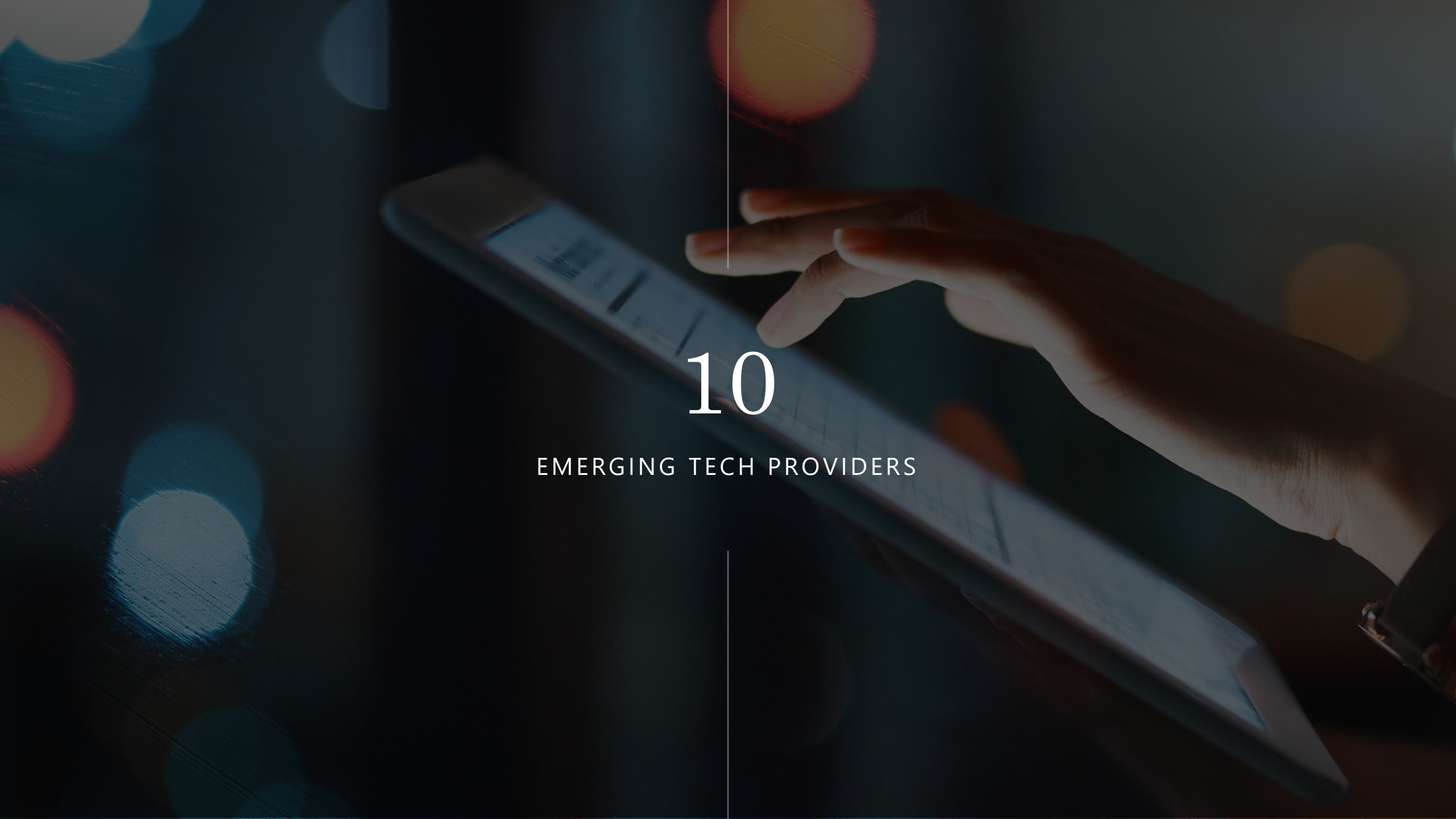
- A quantum computer that can run Shor's Algorithm can break current foundation of cryptography: RSA-based public/private key encryption
  - Development of post-quantum cryptography is underway
  - In March 2025, the NSA announced the first post-quantum cryptographic standards
  - Widespread concern about "harvest now, decrypt later" attacks
- Begin transition planning to post-quantum cryptography now
  - Consider cryptographic dependencies, prioritize high-value and long-lived data, and align new systems and contracts with the NSA's March 2025 post-quantum cryptographic standards
- Reduce exposure to "harvest now, decrypt later" risk
  - Limit distribution and retention of encrypted sensitive data, strengthen data-lifecycle controls, and apply defense-in-depth measures (segmentation, key management, and access controls) for data requiring long-term confidentiality





INTELLECTUAL PROPERTY IN COLLABORATION AGREEMENTS

- Quantum computing collaborations often involve hardware, software, algorithms, data and services – all of which may have IP implications.
- Collaboration agreements need to have appropriate intellectual property provisions:
  - Ownership of background IP
  - Foreground / jointly developed IP
  - Licensing rights
  - Exploitation / commercialization rights
  - Export controls / regulatory constraints
- Parties should have a risk-mindset to enable them to adopt a meticulously constructed, forward-thinking approach to protecting their rights.



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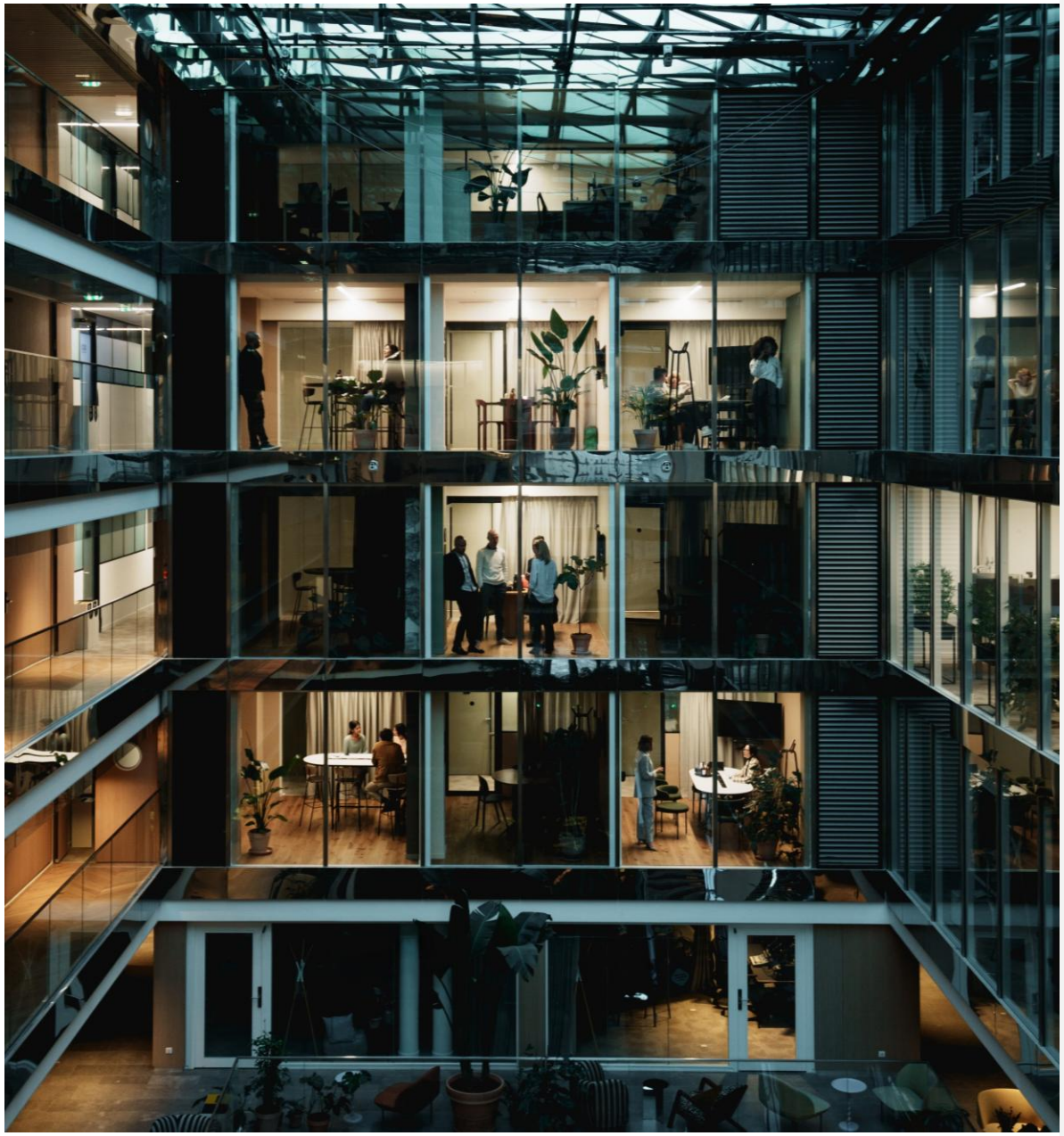
EMERGING TECH PROVIDERS



AI-OR-DIE TREND FOR EMERGING COMPANIES

- Investors and customers increasingly expect emerging tech providers to offer or be powered by AI
  - AI startups captured 65% of all investments in 2025 (through Q3)*
  - Up from 47% in 2024 and just 10% in 2015
  - Half of all new unicorns in 2025 were AI companies
- Emerging tech providers' products (and marketing) are evolving accordingly
  - Developing and in-licensing AI tools
  - Touting AI-enabled efficiencies and expanded value propositions

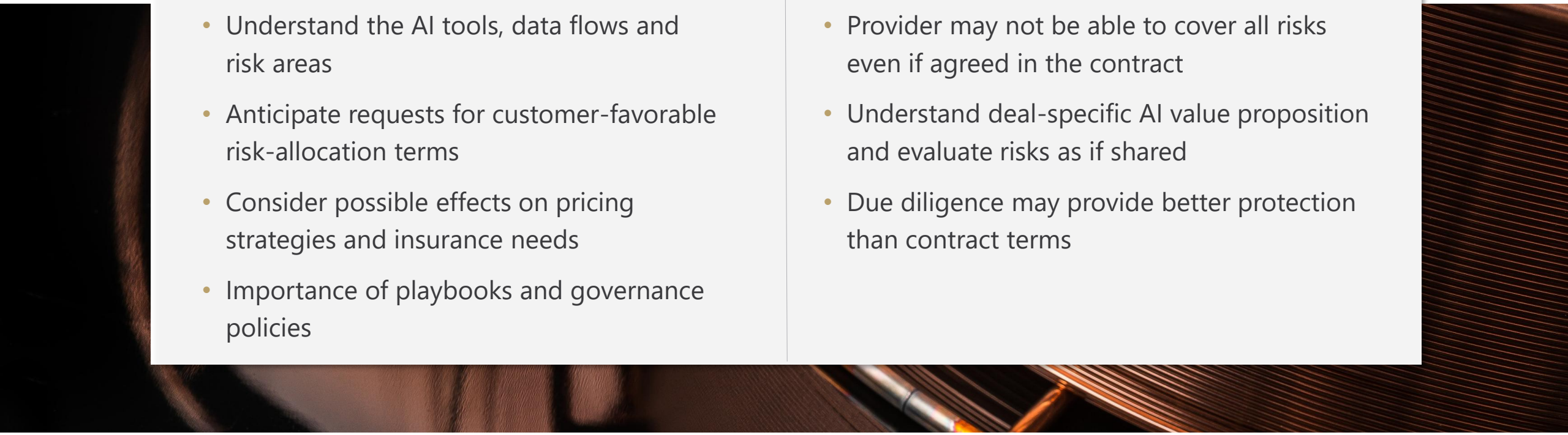
Source: Pitchbook: 2026 US Venture Capital Outlook

CHANGING EXPECTATIONS FOR CONTRACT TERMS

- More comprehensive risk allocation/management
  - Data and systems security, regulatory compliance, and other technical and legal risks, based on the particular AI and data use cases
  - Greater scrutiny and assurances of provider's processes, controls, and insurance
  - More extensive warranties, indemnities, and carveouts from liability caps
  - Note: vertically integrated solutions mean more risk areas (e.g., banking regs)
- Evolving business terms, such as usage- or transaction-based pricing

TAKEAWAYS

EMERGING COMPANIES SHOULD THOUGHTFULLY MANAGE AI RISKS AND CUSTOMER EXPECTATIONS	CUSTOMERS SHOULD SEEK APPROPRIATE TERMS BUT ALSO CONSIDER AI STARTUPS' REAL-WORLD LIMITATIONS
• Understand the AI tools, data flows and risk areas • Anticipate requests for customer-favorable risk-allocation terms • Consider possible effects on pricing strategies and insurance needs • Importance of playbooks and governance policies	• Provider may not be able to cover all risks even if agreed in the contract • Understand deal-specific AI value proposition and evaluate risks as if shared • Due diligence may provide better protection than contract terms



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