Consultation Response

PRA CP18/23 - Diversity and Inclusion in PRA-Regulated Firms

15 December 2023

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on **CP18/23 DIVERSITY AND INCLUSION IN PRA-REGULATED FIRMS**. AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society.

AFME is the European member of the Global Financial Markets Association (GFMA) a global alliance with the Securities Industry and Financial Markets Association (SIFMA) in the US, and the Asia Securities Industry and Financial Markets Association (ASIFMA) in Asia.

AFME is registered on the EU Transparency Register, registration number 65110063986-76.

We summarise below our high-level response to the consultation, which is followed by answers to the individual questions raised.

Executive Summary

AFME and its members strongly believe in the benefits of a diverse workforce and inclusive workplaces and are supportive of initiatives to support Diversity and Inclusion (D&I) in the financial sector. We welcome the regulatory focus on this issue and the intention of the PRA and FCA to assist firms in striving towards improvements in this area.

In relation to the specific proposals made by the PRA and FCA, AFME would like to highlight the following key points from our consultation response:

- We encourage the regulators to consider how the definitions used in these proposals could be better aligned with existing definitions, for example under UK Equality and Employment law, and how ambiguities can be removed.
- The PRA and FCA's proposals would introduce a very significant data collection, reporting and disclosure regime. While robust data can be an important tool to support D&I strategies within firms, there is strong concern that these proposals may lead to an overemphasis on data as an end in itself. In addition, there are concerns about some of the individual demographic characteristics in relation to how they are defined and how they will be used.
- Members are concerned by the suggestion in the papers that high numbers of individuals who "prefer not to say" or did not respond to a request for diversity data could indicate a lack of trust or inclusiveness. There will be many good reasons why the data sets generated by firms will be partial and reassurance is sought that this will not be grounds to make inferences about trust, culture or psychological safety within individual firms or the sector as a whole.
- We are concerned that the UK solo entity approach, while understandable from the PRA and FCA's perspective, will present challenges for many of our members who are part of wider, global groups. These range from tensions between setting UK-only strategies in a group context to potential duplication or conflict with existing programmes or data collection. It should also be considered that many firms drive initiatives such as D&I via group resources, rather than having dedicated

jurisdictional teams. D&I is an important topic that should be considered across the entirety of an organisation rather than in a siloed manner.

We remain available to discuss in more detail any areas of our response.

Detailed Comments

Scope of Application

AFME notes that applying the PRA's proposals on a solo entity basis could, for firms that operate through multiple legal entities, result in a fragmented approach to reporting, disclosure and D&I strategies. This may be further complicated by the fact than an individual contractually employed by one group entity may in fact be performing services for multiple group entities. We are concerned that public disclosure on a solo entity basis may provide a distorted view of a firm's UK population, which will add to the risk that disclosures could be misinterpreted (see also our comments below on the lack of contextual information in disclosures).

Further to this, firms' hiring practices may vary considerably, including country-level or business line-driven hiring as well as entity specific hiring. Strategies, data, targets and disclosures need to be aligned with hiring practices to be most effectively implemented, and to reflect the realities of firms' workforce. For firms with multiple UK authorised entities, we request that the PRA considers permitting firms to consolidate strategies, reporting and disclosure at the level appropriate for their organisation, including across these entities, where appropriate, as an alternative to reporting on a solo entity basis. This would also have the advantage of allowing firms to leverage existing structures, governance and processes to develop and execute their strategies in line with their approaches to business and organisational strategies, which is likely to produce significantly more effective outcomes. We do not consider the risk of such an approach masking underrepresentation at an individual firm to be material, given the global / regional approach firms typically adopt when addressing D&I topics.

Definitions

Employee

We note that the proposals take their definition of employee from the PRA Rulebook/FCA Handbook and not from employment law. This will capture a wider range of individuals, including contractors and overseas staff seconded to the UK, which is likely to present specific challenges. For example, contractors may be less willing to disclose personal information to a temporary employer, potentially contributing to non-response rates. Collecting data on staff recruited or seconded from overseas may also be particularly challenging and require a bespoke process, with difficulties being exacerbated by cultural norms and/or employment law in the individual's country of origin. We also note under Q1 the additional complexity of individuals being contractually employed by one entity but performing services across additional group entities. Therefore, we request that the PRA considers whether the definition of employee could be amended so as to not require collection and reporting of data for certain categories of staff (e.g. secondees or contractors).

Senior Leadership

We note that the definition for Senior Leadership does not align with the approach taken by the well-established Women in Finance Charter (WIFC)[1], in which firms are given the flexibility to use their own definition according to their internal structure. We understand that the regulators' proposals would bring consistency across firms, allowing greater comparability of data. However, markers of seniority differ by firm, for example some currently define their WIFC population by job title, whereas for other firms a reporting line approach is taken. These approaches are also generally applied group-wide and so may not be determined

[1] https://www.gov.uk/government/publications/women-in-finance-charter

from within the UK. Requiring firms to use one approach over another will result in a significant proportion of firms having to redesign HR systems or introduce manual workarounds, each of which comes with a cost. Mandating a single approach, particularly based on reporting lines, will also result in too many or too few employees being captured in some firms. We encourage the regulators to consider whether this additional complexity and cost to firms will be worth the marginal benefit to their data analysis.

Demographic Characteristics

As noted below, there are issues with the definitions of a number of the demographic characteristics, most notably socio-economic background (the definition for which risks being overly narrow) and disability (which includes long-term health conditions).

Firm-wide Strategies (Section 2)

We note that under paragraph 4.7 the PRA *"proposes that boards would be expected (with, where appropriate, support from the relevant board sub-committee) to have an explicit collective responsibility to set and oversee the firm's strategy on diversity and inclusion, including developing talent internally"*, which is mirrored in the FCA's proposed SYSC 29.2.4. However, we suggest that there in fact are two different sets of responsibilities which could be distinguished more clearly here (1) setting a strategy and overseeing its implementation and (2) developing proposals for approval by the management body, and implementation of the approved strategy. (1) should be assigned to the management body (encompassing non-executive functions), whereas (2) should be assigned to the executive function.

We welcome the PRA's recognition in paragraph 2.6 that it may not be practical for branches subject to a group level D&I strategy to have set a fully comprehensive UK strategy. In addition, we note that even where subsidiary entities can set their own strategy, business lines often still operate on a global functional as well as legal entity / regional basis, which may limit the ability of legal entities to set a UK strategy separate from the group / global strategy.

On a practical level, many UK firms and branches do not have their own website – clarity would be welcome as to where they should publish their D&I strategy.

Given the expectation that D&I strategies should be data led, we suggest that the PRA considers allowing for this in the timing of implementation of this aspect of the proposals. While all firms currently collect some data on their employee populations, these proposals represent a significant new data collection undertaking (see our comments under Q10 below). It would therefore be more appropriate for this data collection to be embedded before new strategies are required and a % threshold for data collection set. This would also apply to target setting below.

Targets (Section 3)

In relation to the use of the word "targets", we note that this term may be associated with hard minimum limits or may be at risk of conflation with "quotas".

Both regulators have noted in the consultation papers that the proposals for firms to set and disclose data-led and evidence-based targets for underrepresented groups would not breach provisions of the UK Equality Act 2010. However, in reality, the circumstances in which an employer can take positive action lawfully, without this amounting to unlawful positive discrimination, can be limited and restrictive, and there are nuances that employers must understand in how they achieve these targets. Whilst the setting of targets per se might not be unlawful under the UK Equality Act where these are aspirational in nature, the measures which an employer might take to achieve those targets could amount to unlawful positive discrimination.

This is a very difficult area for employers, particularly global employers, in light of the ongoing scrutiny over the use of affirmative action programmes in the US following the recent US Supreme Court decision in *Students for Fair Admissions v Harvard University and the University of North Carolina.* Whilst that decision applies to the higher education sector in the US and not private employers, it remains to be seen whether and precisely how the decision will impact the way in which courts decide discrimination and reverse discrimination (i.e. positive discrimination) claims in an employment context in the US. Given the ongoing scrutiny over the use of affirmative action programmes in the US, global employers may be nervous of the impact of this landscape on its UK operations, particularly with target setting as proposed by the regulators.

It would be helpful if the PRA could introduce additional guidance stating that (1) targets are not intended to operate as quotas or to require firms to act in a manner which would be unlawful; and (2) firms may choose to use more neutral terms such as "aspirational goals" when referring to these targets internally or in their published strategies.

The PRA has taken a more prescriptive approach than the FCA by mandating targets for women and ethnicity (CP18/23 paragraph 3.6) at a minimum. While it may be that the majority of firms set targets for these characteristics, we support the FCA's more flexible approach (noting the existing 'comply or explain' requirements in FCA PS22/3). This will allow firms to assess their individual positions and any specific challenges, in the context of factors such as group structures and talent markets, and to set bespoke targets appropriately.

We note that there are challenges for UK branches and subsidiaries of overseas headquartered firms, who may not have the ability to influence strategic decisions that are generally made and implemented at a regional or global level. Setting targets at a branch level or UK entity level may be challenging in a group context.

There is also confusion as to how the regulators' proposals are to be operated alongside the existing WIFC, which is well established and benefits from significant public awareness, but which has different requirements. We note that the definition of Senior Leadership under the PRA's proposals is unhelpfully prescriptive compared with the WIFC's flexible approach. Consequently, the two populations will be different, which is likely to cause confusion for anyone consuming or comparing the data disclosed. However, if the PRA's proposals are intended as a successor to the WIFC, this should be made clear and an end date for the Charter announced. Collecting and reporting against two overlapping but distinct requirements is likely to be administratively burdensome, time consuming and confusing.

Finally, we refer back to our comment above on the need for the new data collection requirements to be embedded and a % threshold for data collection set before they can effectively feed into D&I strategies and target setting.

<u>Board Governance (Section 4)</u>

AFME supports a focus on D&I throughout the firm including at Board level. We welcome the allocation of collective Board responsibility for D&I progress within the firm and for a focus on succession planning.

We note that under paragraph 4.7 the PRA *"proposes that boards would be expected (with, where appropriate, support from the relevant board sub-committee) to have an explicit collective responsibility to set and oversee the firm's strategy on diversity and inclusion, including developing talent internally"*, which is mirrored in the FCA's proposed SYSC 29.2.4. However, we suggest that there in fact are two different sets of responsibilities which could be distinguished more clearly here (1) setting a strategy and overseeing its implementation and (2) developing proposals for approval by the management body, and implementation of the approved strategy. (1) should be assigned to the management body (encompassing non-executive functions), whereas (2) should be assigned to the executive function.

In addition, we would welcome clarity on the application of the requirements outlined in Section 4 to firms that are part of a global group, and in particular UK branches. UK branches may not have a board – in such cases, does the PRA intend to impose the requirements on the managing committee of the branch?

Finally, both regulators state that they wish to improve demographic diversity as a means of improving decision making and reducing group think within firms. The PRA admits, however, that simply appointing demographically diverse individuals to a firm or board may still fail to produce greater diversity of thought. We agree and would highlight that the approach taken in the Corporate Governance Code to this issue focuses more on increasing the diversity of skills, experience and backgrounds of board appointees, for example, including members with an HR, compliance, legal or consumer background. This is an important aspect of this debate that the current proposals do not address.

Individual Accountability (Section 5)

We note a key area of divergence between the PRA and FCA's proposed frameworks that could create practical challenges in implementation for dual-regulated firms. The FCA does not require firms to assign Senior Manager responsibility for D&I, whereas the PRA's consultation (CP18/23) proposes to state that D&I will form part of the Prescribed Responsibilities (PRs) for Culture, which are generally assigned to the Chair and CEO. Members are of the view that allocating responsibility for implementation of D&I strategies across the firm to the CEO (per the PRA's proposal) may be inconsistent with the arrangements that many firms have put in practice, whereby a Senior Manager other than the CEO has been specifically assigned responsibility for D&I. We therefore support the FCA's approach that firms should be given flexibility to assign D&I responsibility as per their internal allocation of responsibilities, which may or may not involve the Culture PRs. In parallel, we also support the FCA's statement that all Senior Managers should have some responsibility for the implementation of the D&I strategy within their individual areas of control.

Whilst the assurances that a failure by the relevant Senior Manager to move the dial on D&I within their firm will not necessarily amount to a breach of their relevant responsibilities (as long as reasonable steps can be demonstrated) it is important to recognise that this is a deeply challenging area in which meaningful change can take years. Greater clarity and guidance around the types of 'reasonable steps' the PRA expects to see here would help support Senior Managers.

In relation to the above points, we request that any changes to the Senior Managers Regime and consulted on and made under the Senior Managers Regime rules, rather than as part of separate consultation. This will ensure a consistency of approach and ensure that there is a single, consistent reference point for firms in relation to the Regime's application.

On Fitness and Propriety assessments, while we generally welcome the additional guidance on non-financial misconduct, we note that there will be challenges in the application. In particular, we believe that there may be circumstances where there may be challenges in corroborating relevant allegations about an individual particularly in the absence of a finding by a court, tribunal or other fully completed internal process, where the factual accounts are disputed.

We have included in our response to FCA CP23/20 detailed comments on the expansion of the Conduct Rules to cover non-financial misconduct and the amendments to the FIT part of the FCA Handbook.

Monitoring Diversity and Inclusion (Section 6)

AFME has no comments in response to this section.

Regulatory Reporting (Section 7)

General comments on data collection for reporting and disclosure

In relation to the PRA's proposals on data collection for the purposes of reporting and disclosure, we would also like to raise the following overall comments.

The data collection proposed by the PRA, even with a limited set of mandatory fields, will be a very considerable change for the industry. Some firms will need to build data collection mechanisms from scratch, whereas other firms will need to adapt existing processes (in many cases significantly). All firms will need to conduct extensive employee awareness programmes on the new requirements and what the firm plans to do with the data collected.

The PRA recognises in its proposals that employees must be given the option not to respond to some or all of the data collection request (indeed, there could be a difference drawn even between those who do not respond to their firms' request, who only respond to particular elements, or who specifically choose 'prefer not to say'). In order to build the trust required to collect the metrics, it is important that employees understand how employers will use the data. A larger set of metrics could be counter to this aim (see comments below). In light of this, we believe a careful balance will be needed between, on the one hand, the desire to increase response rates through a culture of trust, respect and psychological safety and, on the other, the risk that pursuing increased response rates could actually work counter to these aims.

There will be many legitimate reasons why an individual, who otherwise trusts their firm and feels psychologically safe, may not wish to disclose personal information. Such reasons may include deeply held cultural beliefs and norms about personal privacy, or considerations related to an individual's life outside their employment. In addition, there may also be temporary e.g. related to an employee's state of mind on the day on which the request is made or the importance the employee places on the request. Conversely, high response rates do not always correlate to a diverse workforce – individuals in a homogenous culture may feel sufficiently comfortable to respond precisely because the majority of their colleagues come from similar backgrounds. There are real risks in drawing conclusions about a firm's culture based simply on this one data point. Consequently, we would welcome further reassurance from the PRA it is not their intention to compare or aggregate response rates to draw inferences about culture within the industry or within individual firms (particularly given the breadth of firm types and sizes).

Given the importance of allowing employees the option not to respond, the resulting data sets will be partial at best and will take many years to develop into meaningful sources of information. Therefore, there also needs to be recognition of the limitations of what conclusions about a firm's D&I progress can be drawn from a partial data set. Even a non-response rate of only 20-30% would significantly obscure the full picture of a firm, particularly if we assume that non-respondents may also be those whose responses would otherwise have increased a firm's diversity scores in one or more metrics. In addition, many of AFME's members have small enough employee populations for individual hires/departures to have a disproportionate effect on overall percentages, which would be magnified in a partial data set.

Therefore, we consider it important to emphasise that data collection should be a means to an end rather than the end goal. The limitations of the data set, likely for many years, must be acknowledged. The resultant statistics should not be used as a primary or most reliable measure of a firm's culture or overall D&I, but should be set within a broader context of holistic D&I strategies, cultural change and the global industry.

Reporting start date and frequency

We appreciate the PRA's flexibility in providing a 3-month window for firms to submit data. However, we encourage the PRA to consider how this new reporting obligation fits within the wider landscape of reporting obligations for firms. For example, firms already have annual reporting at financial year end, gender pay

reporting at the end of the tax year and reporting for the WIFC (see also Q4 and Q8 above) by end-September. Firms may also have additional reporting deadlines driven by group-level requirements, or may need to adjust their data collection timelines to fit around other group data collections or surveys. A key concern for our members in this respect is the EU Corporate Sustainability Reporting Directive[2], for which the first report is due in 2025 and for which the required data are extremely granular, necessitating the creation of specific new data collection processes and systems. While we appreciate that the UK regulators cannot be beholden to deadlines within in other jurisdictions, the introduction of another – annual - reporting deadline will further complicate this reporting landscape and will increase the resource requirement for firms.

Therefore, we request that the PRA considers (1) the timing of the first submission date and (2) the annual reporting deadlines. In relation to the latter, we request consideration of whether there could be greater formal alignment of reporting deadlines (such as the 5th April gender pay reporting deadline), or the option for firms to report well in advance (i.e. more than 3 months) of a final annual deadline in order to voluntarily align with existing obligations.

We also wish to raise a concern that annual reporting may place too much pressure on firms to demonstrate continuous upward progress on what will be a significantly longer-term process. We would support less frequent reporting.

Demographic questions

In relation to the demographic characteristics proposed by the PRA, we support that only a limited set will be mandatory. We also suggest that both religion and disability reporting should be voluntary, given the limited usefulness of this information. In addition, any future expansion of the mandatory metrics should be separately consulted on after a suitable implementation period for the initial requirements.

However, we note that even some of the mandatory characteristics are not currently routinely collected by firms and that many of the characteristics will pose additional challenges in collection. As a general point, every element of the data collection, reporting and disclosure will establish additional costs for firms in the UK. Where characteristics may be less impactful on groupthink and diversity of thought, or where there is an absence of data to demonstrate such a link, they should be kept as voluntary. In that way, competition is likely to increase their adoption amongst firms without creating additional mandatory costs which can impact the UK's competitiveness and attractiveness to international firms.

For instance:

- Ethnicity: this is likely to be culturally challenging for some firms, particularly where collection of data on ethnicity is restricted in the home jurisdiction. We note, for example, that in France the collection of employee ethnicity data is prohibited[3]. In addition, where firms do collect ethnicity data, the sub-categories may be set by head office and may therefore differ from those required by the UK regulators (which are drawn from the Office of National Statistics and therefore tailored to a UK population), necessitating a UK-specific process.
- Religion: data on religion is not routinely collected by most firms and will require a new collection process. We note that data on employee religion is also prohibited in some jurisdictions (e.g. in France[4]) which will be a challenge for some firms. There may also be an reluctance from some employees to provide information on their religion, even where it will be aggregated before public disclosure, given current world events. While this may be considered unintrusive for many UK staff, international firms frequently have a high number of international staff. For those staff from a non-UK

[2] https://finance.ec.europa.eu/capital-markets-union-and-financial-markets/company-reporting-and-auditing/company-reporting/corporate-sustainability-reporting_en
[3] https://www.insee.fr/en/information/2388586
[4] Ibid.

cultural background there can be substantial cultural sensitivity regarding religion, regardless of the culture and psychological safety present in the firm. This can also be substantially exacerbated by geopolitical events, outside of the influence of firms. Furthermore, it is unclear how useful data on religion will ultimately prove to be.

- Sex or gender: this is also likely to be culturally challenging for some firms. We note that such data are not included on ID cards in Germany, for example[5]. We also suggest that the categories may need to be further expanded, for example to align with Stonewall Monitoring Guide 2019: Male, Female, I Use Another Term (although we note that a free text option to specify a different term may not be helpful for comparability), Prefer Not to Say. This may also necessitate allowing employees to select more than one response option. while accepting that this will then require an explanation versus overall response numbers.
- Sexual orientation: again, we suggest alignment with the Stonewall Monitoring Guide 2019: Bi, Gay/Lesbian, Heterosexual/Straight, I Use Another Term (although we note that a free text option to specify a different term may not be helpful for comparability), Prefer Not to Say. We again note that it is considered best practice to allow employees to select multiple options. This is also be a characteristic that, while it may be considered unintrusive for many UK staff, can be challenging for staff with a non-UK cultural background, where there can be substantial cultural sensitivity regarding sexual orientation, regardless of the culture and psychological safety present in the firm.
- Disability: the definition of this characteristics is not clear and, in particular, the inclusion of long-term health conditions introduces considerable uncertainty as to its scope. Many firms also do not routinely collect data on employees' long-term health conditions, however defined. We suggest that the PRA removes long-term health conditions and then either sets out a clear definition of disability or specifically gives firms the flexibility to use existing internal definitions.
- Socio-economic background: we appreciate the PRA's intention to support data collection on this characteristic. However, whilst the proposals use the Social Mobility Commission background categorisations, these have been criticised as overly simplistic and unduly narrow. Social mobility is difficult to define and subject to significant nuance. Classification based on just three groups limits the extent to which individuals are likely to find a category that they feel reflects their particular background, increasing the likelihood of them choosing the 'prefer not to say' option. The categories also fail to capture the fact that for employees of regulated firms who grew up overseas, where social mobility will manifest itself in different ways. Many firms have responded to this in practice by allowing individuals to self-identify as socially mobile or have retained a broader range of categories. We suggest the same approach is taken here and also support this characteristic remaining voluntary for reporting.

Risk of Identification

As a general point on reporting, our members have a concern regarding identifiability in the regulatory report. While the regulators recognise the concerns firms and individuals may have around identifiability of small groups for disclosures, the same concern is equally valid regarding regulatory reporting. Failing to allow firms to take steps to protect the anonymity of their employees when reporting demographic data would not only be a breach of trust, but also likely a breach of data protection law. It would be helpful if the regulators could set out guidance on minimum response rates below which individuals may be identifiable, and allow firms to apply judgement in addition to these to account for other relevant factors.

[5] https://www.germany.info/us-en/service/02-PassportsandIDCards/id-card/917860

Questions on inclusion

Overall, AFME is supportive of the intention behind the inclusion questions, as they are more forward-looking than the data collection, which is necessarily reflective of the current or past shape of the firm. However, it may not be feasible or appropriate for firms to use the exact wording and scoring (agree, disagree etc.) of the PRA's questions. While we appreciate that mandating the exact language and scoring system would result in a more comparable data set across the industry, it would risk being duplicative of or inconsistent with existing efforts within firms, particularly where those are set at a group level and are more aligned to the individual cultural initiatives of the firms. It may also lead some firms to feel they must discontinue existing efforts, even where those have been carefully developed with a range of experts, such as D&I, people science and data analytics teams, and have been in place long enough to start delivering meaningful, comparative information on trends within the firm. Alternatively, should firms instead elect to establish a second supplementary inclusion questionnaire in order to reflect specific wording, this would likely have substantially lower response rates than established group-wide questionnaires (due to what might be termed "survey fatigue") which could limit the usefulness of one or both initiatives. Ultimately, the cost associated with changing existing global processes or of establishing additional local processes may be disproportionate to the incremental increase in comparability achieved by the use of identical wording.

Furthermore, we feel that a key intention of the inclusion questions should be to allow the firm, and its supervisors, to analyse it own culture and any ongoing trends, rather than necessarily to promote comparability between firms. We ask the regulator to consider whether a greater role for the supervisory relationship in analysing a firm's approach to measuring inclusion could be more useful and achievable than full comparability.

In addition, we note that the current questions focus on elements that contribute to psychological safety. However, psychological safety relies upon a wide range of factors beyond having a culture of inclusion. Therefore, there is a risk that inferences about psychological safety may be drawn without a complete picture of those factors. There is also an argument that higher inclusivity scores may be achieved by firms with lower overall diversity, which would be amplified be lack of contextual information with this disclosure. We encourage the PRA to consider how these risks can be avoided.

We would also like to raise a concern about the question on individual experience of counter-inclusive incidents. This is a highly subjective data point which may provide little objective insight into a firm's actual culture. It would also be challenging for firms to investigate any issues that are reported, as they will not have sufficient information about the incident. In light of this, it would be helpful if the PRA could clarify the intention behind this question.

The inclusion questions apply to all individuals, including members of the board. However, board members are not employees and boards functions differently from the wider organisation. Issues of inclusiveness at board level should, in our view, also be addressed in existing board effectiveness reviews. If they are retained, we suggest making it clear that inclusion questions should be applied to employees and not to (non-executive) board members.

<u>Disclosure (Section 8)</u>

We refer to our comments under 'Regulatory Reporting' above in relation to the challenges of data collection.

In relation to the content of disclosures, we are concerned about the disclosure of inclusion metrics. Employees' responses on inclusion will be useful to firms and supervisors but appear to be beyond what should be necessary for public disclosure. We would request that the PRA considers whether disclosures could instead be focused on the diversity metrics alone.

As noted above, we believe that requirements such as public disclosures should be a means to an end rather than a goal in and of themselves and that there are limitations to their usefulness in conveying meaningful information about a firm's overall culture (including D&I).

Furthermore, the format of disclosures does not leave space for commentary on the data (for example, how the data compares to the wider talent market in a particular area, or how the firm's geographical context may factor in – differences between domestic UK firms and global groups, for example) and is not intersectional. This is a particularly important concern given the different audience of disclosures compared with regulatory reporting – those reading the disclosures are less likely to have the wider contextual view of the those working within the regulated sector. This could ultimately amount to creating an unlevel playing field between domestic firms and international firms operating in the UK.

Similarly, we are aware that the financial services industry has some way to go in addressing diversity and that the disclosures made may unintentionally have negative effects on attracting talent to the sector. We encourage the PRA to consider this.

We do not seek to suggest that the disclosure requirements should be made more details and prescriptive in order to address these points, but seek reassurance from the PRA that the limitations of the disclosures are understood at a supervisory level. In line with our comments above, we also question whether annual disclosure is necessary or appropriate (or whether this could risk driving inappropriate behaviours to seek to demonstrate progress against prior years' disclosures and targets). Less frequent public disclosure would be consistent with the longer term nature of progress in this area.

We note that the PRA's proposals are extremely granular, which raises risks of individuals becoming identifiable particularly in firms with smaller employee populations. We encourage the PRA to consider how this risk can be avoided both in relation to regulatory reporting and even more so in relation to public disclosure. For example, it may be helpful if the PRA and FCA could provide guidance as to a minimum response rate below which identifiability could be considered a risk, while allowing firms to apply judgement as to other factors which may influence this.

Finally, we also suggest that disclosure on both religion and disability should be voluntary, given the limited usefulness of this information. In addition, any future expansion of the mandatory metrics should be separately consulted on after a suitable implementation period for the initial requirements.

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