
Response to Discussion Paper

DP 21/2 Diversity and inclusion in the financial sector – working together to drive change

29 September 2021

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on **DIVERSITY AND INCLUSION IN THE FINANCIAL SECTOR – WORKING TOGETHER TO DRIVE CHANGE** (the “DP”). 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.

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

Executive Summary

AFME welcomes the opportunity to comment on the Discussion paper on diversity & inclusion in the Financial Sector, jointly published by the UK regulators; FCA, PRA and BoE. We would also like to use this opportunity to express our continued support for improved diversity and inclusion in the financial services sector and welcome the UK regulators’ continued focus on promoting a diverse and inclusive industry.

Diversity & inclusion is a key consideration for Financial Services. Greater diversity can help firms better serve their customers. Building a culture which supports and celebrates diversity is important to driving business outcomes, including enhanced employee engagement, strengthened community relations, and increased organisational capability.

Many of our Member firms have existing commitments to diversity and inclusion, recognising that employing a diverse group of people brings different perspectives to the organisation, allows the company to become more flexible and agile, and leads to increased innovation in the marketplace. Member firms acknowledge that there is room for improvement and that the key to driving inclusion is a delicate act of balancing aspirational goals with practices that provide value to the business, whilst holistically addressing the needs of its employees and the community.

We also recognise that firms’ diversity and inclusion strategy needs to be developed as an integrated, cross functional, business-driven approach for which the entire business is held accountable. We also welcome the practice of reviewing diversity & inclusion best practices at regular intervals.

Our responses to the questions in the Discussion paper are summarised below.

Q1: What are your views on the terms we have used, how we have defined them, and whether they are sufficiently broad and useful, now and in the future.

Member firms are largely in agreement with some of the views put forward by the regulators; however, some of our Members are concerned with how the regulators have defined key concepts. Firms continue to evolve their understanding of diversity by expanding into the true essence and purpose of inclusion – the creation of

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a culture which recognises equity and belonging as critical components of the diversity and inclusion journey. Here are some detailed comments provided by member firms:

- In para 1.18; the Discussion Paper states that *'Inclusion can be defined as the practice or policy of providing equal access to opportunities and resources for people who might otherwise be excluded or marginalised, for example due to demographic characteristics.'* Members did not agree with this statement, suggesting that the concept of providing 'equal access' can be problematic and create unequal outcomes. Members consider that the FCA's use of 'equal opportunity' can restrict equity. There are concerns that the FCA's consideration of 'equitable' as applying 'equal opportunity' to all individuals can create unfair situations. We also suggest that the phrase, equality is replaced with equity as the former is now uncommonly used.
- On 'diversity of thought', Members were concerned that this concept can be misapplied to support diversity initiatives without achieving the intended outcome. Diversity of thought should lead to actual diversity. Diversity should not be limited to supporting different styles of thinking, and the Regulators should be clearer in what they mean by diversity and anchor it to meaningful and measurable characteristics (e.g., race representation, disability, gender, and other protected characteristics). For example, a room of individuals demonstrating 'diversity of thought' won't support the inclusion of an individual from an underrepresented demographic. It is important that the Regulators reinforce an inclusive culture by integrating both demographic diversity and diversity of thought.
- The elements and factors that contribute to diversity should be both visible and invisible.
 - Visible Diversity Traits include culture, ethnicity / race, nationality, gender, mental / physical status (often referred to as disability), and age.
 - Invisible Diversity Traits include diversity of thought, perspectives, and life experiences which may involve education, family status, values and beliefs, working-style preferences, neurodiversity, and socioeconomic status.
 - Additional dimensions which may or may not be visible include sexual orientation, disability, and religion/faith.
- Firms may struggle with the usefulness of the definition provided in the paper and there are concerns that the definition as drafted does not provide enough to support firms in achieving true diversity of thought as intended. Members prefer a more widely accepted definition, for example, the Chartered Institute of Personal development (CIPD) recognise that diversity is about recognising difference which includes visible and non-visible factors, for instance, personal characteristics such as background, culture, personality, workstyle, accent, and language. *"It's important to recognise that a 'one-size-fits all' approach to managing people does not achieve fairness and equality of opportunity for everyone. People have different personal needs, values, and beliefs. Good people management practice needs to be consistently fair but also flexible and inclusive to support both individual and business needs."*¹
- Our Members embrace a diverse workforce that includes people of different ethnic and cultural backgrounds, gender identity and expression, sexual orientation, status, abilities, diversity of thought, opinion, experience and leadership styles and all other characteristics.
- We welcome a more detailed definition of 'Diversity' from the Regulators.

Q2: Are there any terms in the FCA Handbook, PRA Rulebook or Supervisory Statements or other regulatory policies (for any type of firm) that could be made more inclusive?

¹ Inclusion and diversity in the workplace; CIPD [file:///C:/Users/Tola.Gbadebo/Downloads/factsheet_20210921T095311.pdf]

We welcome the willingness from the regulator to consider this and have identified the following terms:

- Grandfathering (e.g., SUP TP 6, SUP TP 7; SUP 10A.14.21 of the FCA Handbook), Master (e.g., Rule 1.4 and 2.3 of the PRA Rulebook),
- Chairman (e.g., SUP 10C.5.23, SUP 10A.6.20 and DEPP 3.4.1), and
- Note other commonly used terms such as 'Blacklist', 'White list', 'White paper'

Q3: Do you agree that the collecting and monitoring of diversity and inclusion data will help drive improvements in diversity and inclusion in the sector? What particular benefits or drawbacks do you see?

We believe that by collecting and analysing data on diversity over time, comparing those numbers to the numbers at other organisations, and sharing them with key stakeholders, firms can increase accountability and transparency on diversity issues. For example, if a firm has a lower representation of women in managerial positions relative to the industry, similar firms, and/or the goals of the firm; this identified shortfall can lead to clear goal setting for numbers and timelines for increasing women's representation in management. In turn, these goals can be made available to key internal and external stakeholders to promote accountability. Tracking metrics is essential to link diversity and inclusion initiatives, provide solutions to business outcomes, and for measuring return on investment.

This strategy will however only be effective if:

- the data is appropriately analysed,
- progress and roadblocks are continually identified, and
- key stakeholders can chart a path forward.

Members are supportive of collecting and monitoring diversity and inclusion data, but suggest that there may be some challenges for the Regulators in the following areas:

- The number of diverse markets that they regulate and the challenges of benchmarking or uniform reporting for different sizes of firms
- The global operations of firms
 - Local data laws will prevent global firms from capturing data in many jurisdictions
 - Response rate will be low in some jurisdictions – even with communications and workshops
 - Note that the Parker Review cited in the paper as an example of helpful existing initiative, is UK focused and may have a jurisdictional limit.
- Firms' ability to collect complete diversity and inclusion data to form a meaningful view. We note that data collection on some of the protected characteristics is on a voluntary basis, so will not provide an accurate representation. Staff members may not wish to fully disclose certain protected characteristics, for instance, it will be difficult to get common denominators on social mobility – also the parameters may differ for international staff as to what constitutes social mobility.
- Furthermore, firms will need to undertake a significant data exercise to ensure they identify the right terminology e.g., 'social mobility' would not work as a searchable term if it has not been defined.
- Managing differing interpretations of the same term e.g., 'ethnic minority' may differ across jurisdictions (firms will need to ensure they are comparing accurate data for true insights).
- Firms will prefer if there is a focus on 'outcomes' and not on the approach or methodology.

Finally, we believe that firms must feel safe in collecting and reporting this data and welcome communications from the regulators on how to manage this so that there can be consistency across board.

Q4: Do you have a view on whether we should collect data across the protected characteristics and socio-economic background, or a subset?

Our Members have differing views on this.

- One view is that a subset would be a preferable starting point and would help ensure consistency before building out further. If the regulators opt for collecting a subset of, we would prioritise gender and ethnicity first.
- Another view was a preference for questions that work overall, rather than subset of questions for each jurisdiction.

Overall, Members consider that any dataset collection on expanded characteristics has to be consistent and provide clear value and benefits. For example, when collecting data on faith as a subset, there will need to be a cost benefit analysis of what insights or value this exercise will provide.

Q5: What data could the regulators monitor to understand whether increased diversity and inclusion is supporting better decision making within firms and the development of products and services that better meet customer's needs?

Additional measures that Regulators could monitor for improved diversity and inclusion outcomes could include data on board diversity in succession planning and consideration of upcoming appointments in the context of diverse representation. Other examples are benchmarking initiatives; best practice recommendations and some of the core conduct indicators for example: complaints volumes, number of self-identified issues, or employee engagement scores. Where firms have already adopted one or more of the proposals or are signatories to voluntary codes such as the Women in Finance Charter, data on the progress made on their existing obligations may also be helpful.

It would be beneficial to measure the benefits and the outcomes of improved diversity & inclusion. However, we wish to highlight the challenges of measuring this generally, some of which are outlined in Q3 above.

Q6: What are your views on our suggestions to approach scope and proportionality?

We believe all firms should operate in a diverse and inclusive environment and that the Regulators cannot apply a one size fits all approach. The consideration to vary the regulatory burden and approach in accordance with firm size and type and to rely on the existing legal and regulatory framework is welcomed.

With regards to the Regulators' approach to scope, we consider that because of varying complexities and structure. each individual firm should be able to set their own targets and justify why they have set those the targets. It would be more meaningful for the Regulators to challenge targets set by firms and assess their pace or progress of achieving set targets.

Q7: What factors should regulators take into account when assessing how to develop a proportionate approach?

We suggest that individual firms may already have diversity and inclusion measures in place in respect of their products or services and that Regulators should consider an integrated approach when imposing new requirements on firms. For example, Asset Managers may have environmental, social and corporate governance policies which integrate diversity and inclusion issues in place in respect of their investment processes.

Q8: Are there specific considerations that regulators should take into account for specific categories of firms?

We welcome the regulators' discussion of proportionality for different sizes and types of firms. In particular, we note the challenges for branches of non-UK firms, who are subject to group-wide policies and often strongly influenced by head offices' cultural expectations. For example, the definitions of diversity and protected characteristics may be different at the head office level from the direction explored in this discussion paper. Branches of non-UK firms would like the Regulators to bear this in mind.

We suggest that, while it may be possible to include branches of non-UK firms in some benchmarking exercises, it will be important to take a proportionate approach to any final regulatory or supervisory requirements that result from this discussion.

Member firms would also like Regulators to consider and accommodate different types and levels of diversity in firms depending on whether a firm is retail or wholesale, e.g., the diversity of Retail banks should be broader to reflect all types of underlying customers, whereas Wholesale banking clients may not be as diverse, particularly where they are global clients.

Q9: What are your views on the best approach to achieve diversity at Board level?

Please refer to our response to Q8. We suggest that it would be helpful to provide further clarity as to what 'Board level' means for different types of firms. In particular, we note that branches of non-UK firms may have management or executive committees which perform a similar function, although some decisions may still be taken at group level (often including final decisions as to the composition of those committees). We would like to reiterate that further clarity is needed as to what 'diversity' means in this context. We suggest the regulators adopt a very clear and precise yet broad definition of diversity.

Paragraph 5.14 refers to *"diversity of thought, supported by demographic characteristics and an inclusive culture"*. However, diversity of thought can be difficult to measure and is by no means guaranteed by diversity of demographic characteristics alone. There are different components that underpin diversity of thought beyond demographic characteristics. For example:

- Group composition: The inherent potential of individual group members to think differently from each other may be based on experiences, beliefs and the way they prefer to address problems.
- Group culture: The attitudes, practices and group dynamics that influence individual group members' willingness to share their thoughts and for group members to actively listen to the perspectives of others.

Furthermore, diversity of thought needs to be balanced against the critical requirement to ensure that a Board has sufficient knowledge and experience, at both collective and individual levels. The size and complexity of AFME Members means that, in practice, sufficient knowledge and experience generally equates to individual Board Members needing a very significant period of industry experience. We note that this requires a longer-term solution. In this respect, creating and supporting a diverse pipeline of talent is also crucial. While there has been significant progress in entry and junior levels, firms should be encouraged to focus on how they nurture talent within the first few levels below the Board, the Executive Committee (ExCo) and the Management Committee, in order to support increased diversity at Board-level. This is likely to be a step further than the succession planning discussed in paragraphs 5.17-5.19.

We also note that addressing firms' efforts and impacts earlier in the hierarchy is crucial to improving Board/ExCo diversity. Incorporating diversity and inclusion at Board level only, is too late in the process and we recommend that firms and regulators apply significant focus here.

Q10: What are your views on mandating areas of responsibility for diversity and inclusion at Board level?

Noting our comments in Q9, in relation to the definition of diversity in this context, we agree that firms should be encouraged to take greater responsibility for increasing diversity and inclusion at Board level. However, prescriptive requirements in this area would not be appropriate, given the breadth of firms and their individual compositions. Instead, firms should be required to set and track their own targets, which may span not only the diversity characteristics discussed in this Paper but also firm-specific measures, such as ensuring a balance of executives from within and outside the head office culture.

We also believe that Boards should disclose and report against the company's policy on diversity, which should include specific goals, measurable targets and a time period for achievement. The report could include an explanation of how the diversity policy supports strategy and how diversity is considered as part of succession planning and throughout the company.

Q11: What are your views on the options explored regarding Senior Manager accountability for diversity and inclusion?

We support the consideration of the existing Prescribed Responsibilities (PRs) for the purpose of expanding Senior Manager accountability into the area of diversity and inclusion. This would be more appropriate than the creation of new PRs, as the existing PRs are already supported by SMCR frameworks within firms. Nevertheless, an expansion would still require discussion and resources to implement, for example what would constitute 'reasonable steps' in this area, and how the diversity and inclusion responsibility cascades down to individual business lines or functions.

Again, we also refer to our comments under Q9 and Q10 as to what 'diversity' means in terms of both the regulators' expectations and each firm's specific context. This will be important to discuss further before individual executives can be held accountable.

Q12: What are your views on linking remuneration to diversity and inclusion metrics as part of non-financial performance assessment? Do you think this could be an effective way of driving progress?

- AFME's Members are supportive of the inclusion of diversity and inclusion considerations in their remuneration policies and processes, as part of the assessment of non-financial performance. This is already common practice within firms, driven by firm-wide commitments on diversity and inclusion, shareholder priorities and the use of 'balanced scorecards' in performance assessments which take into account both financial and non-financial criteria.
- However, we also support the Paper's caution about being too prescriptive in this area. Remuneration should be considered as a supporting element in the wider context of a firm's diversity and inclusion policies, rather than as a requirement in itself. There would otherwise be a risk that the remuneration requirements become a 'box ticking' exercise, rather than upholding wider commitments.
- In addition, it should be noted that there would be a strong dependency on effective data collection if remuneration were to be linked to diversity & inclusion metrics in a prescriptive manner. At present, firms rely on voluntary submissions from employees in order to collect data on diversity and inclusion beyond basic characteristics such as gender. Until such time as there is a cultural shift resulting in the willingness of a majority of individuals to provide such data, which is often considered to be of a personal nature, this will continue to prevent meaningful analysis of diversity and inclusion by most other metrics.
- Furthermore, the lack of substantive and standardised data across the industry would likely result in a fragmented approach should prescriptive remuneration measures be put in place, as firms would only be able to measure against their own diversity and inclusion data, without a clear view of how this fits within the broader industry context. To ensure consistency across the industry the Regulators

could consider thresholds for data being reported and there could for instance, be a trigger for reporting driven by a minimum level of data.

- Creating a culture in which these incentives are valid, meaningful and equitable takes time to develop. For example, remuneration Level 1 firms, may find that the significant value of outstanding deferred awards which need to be bought out, particularly at the SMF level, is a barrier to labour market mobility, which in turn makes it challenging to hire diverse external candidates for more senior opportunities.
- Finally, caution needs to be exercised that linking remuneration to diversion and inclusion metrics does not turn diversity and inclusion into a “tick box” activity.

Q13: What are your views about whether all firms should have and publish a diversity and inclusion policy?

It is in a firm’s best interest to publish a policy or a statement of intent that outlines expected behaviours, duties of the employer and the employee. However, there are some challenges associated with this.

Policies are often reviewed at group level and as such the style and format may vary from firm to firm. The requirement for a policy should therefore not be prescriptive. From a practical standpoint, we consider that a statement of practice is more appropriate to many areas of Diversity, Equity & Inclusion than simply publishing policies.

Q14: Which elements of these types of policy, if any, should be mandatory?

A Diversity & inclusion policy or statement of intent could be a high-level statement, published and reviewed annually. The format of a Diversity & inclusion policy or statement of intent should not be mandatory. A diversity & inclusion policy or statement of intent should however have guiding principles e.g., equality of opportunity among employees, expected behaviours, creating inclusive environments, removing discrimination, enabling the ability to speak up, dignity at work.

Other key elements which could be included in a policy are:

- a definition of where overall responsibility for the policy lies (e.g., the board/senior management team)
- the operating principles of the policy, including a clear statement of the organisation's core values
- the employer and employee’s responsibilities for promoting and delivering the equality and diversity policy or statement of intent as well as the legal and business context
- the details of the policy or statement of intent broken down into its component parts such as recruitment and promotion
- management and staff training
- how the policy will be monitored, evaluated, reviewed, and amended over time

Q15: What are your views about the effectiveness and practicability of targets for employees who are not members of the Board?

The regulators would need to provide further guidance on the intended population and adopt a proportionate approach that is also attainable by small firms. As with the Women in Finance Charter, target setting should be done by each firm. Regulators should question progress made against targets set and, request evidence of progress measures. Proposals for targets tend to focus on matters at Board and senior management level. This may be a reflection of needing to tackle a firm’s diversity and culture from the top-down to effect “deep cultural change”; but ultimately diversity & inclusion issues will need to be integrated across an entire firm to be effective.

Q16: What are your views on regulatory requirements or expectations on targets for the senior management population and other employees? Should these targets focus on a minimum set of diversity characteristics?

- The current data is not robust enough for targets to be set. A lot of the required information is captured on a voluntary basis. Firms would need to be mandated to collect diverse representation data and this is currently not a legal requirement.
- Legal, data protection and systems issues will present hurdles to effective and accurate data collection and to this end, this is an evolution that will take time and should be long dated.
- We believe that having targets may be prescriptive and suggest that instead of setting targets, firms should be given the flexibility to turn the dial and provide metrics which evidence continuous improvement.
- If the Regulators opt for setting targets in the senior management population, we believe that there should be a focus on a minimum set of diversity characteristics and our preference would be to focus on Gender and Ethnicity.

Q17: What kinds of training do you think would be effective in promoting diverse workforces and inclusive cultures?

We believe that diversity and inclusion training has the potential to positively address biases and prejudice within firms. However, whilst diversity training can be a strong solution to many diversity and inclusion-related issues, there is some doubt as to whether diversity and inclusion training works as intended. Sometimes, diversity and inclusion training reinforces differences between people rather than providing the needed insight and instruction on how to work effectively together. For instance, the way unconscious bias training is developed and delivered is critical in achieving a good outcome. If not positioned correctly, it can lead attendees to believe that unconscious biases are so integral to all of us, that there is little point in trying to address them.

Effective diversity and inclusion training programs should target all employees and address a range of issues, including but not limited to unconscious bias, microaggressions and cross-cultural communications.

Training methods are also important in creating an inclusive workplace, e.g., ideally e-learning and videos should have audio and subtitles to account for impaired sight or hearing. Likewise, when delivering live / in-person training, the facilitator should accommodate the needs of individual participants – e.g., providing print outs of written material, adjusting font size on-screen or in materials, being mindful of neurodivergence and allowing more time for responses, not putting people on the spot etc.

Effective Diversity and Inclusion training programs should link diversity and inclusion to the vision, mission, values, and goals of the firm. For training to be effective, the message must be reinforced regularly.

Instead of rolling out one-time workshops or an annual training, firms should consider rolling out a series of programmes, continual learning, and mentoring opportunities. Firms should also vary how they present the training, taking a blended or hybrid approach.

Q18: What kinds of training do you think would be effective for helping understanding of the diverse needs of customers?

To accomplish this, we suggest that firms do not take a one-size-fits-all approach in developing their training programs. Diversity and inclusion training should be tailor-made for the firm conducting it. Diversity & inclusion training programs should be based on an understanding of the unique diversity and inclusion objectives and challenges of each firm and the users of the firm's services e.g., retail customers or wholesale market participants typically referred to as clients. We note that this question appears to be focused on retail 'customers' and welcome clarity from the Regulators if their expectations vary for wholesale clients.

Training is dependent on the kinds of clients or customers firms are trying to attract. Identifying the existing client/customer base and the clients/customers a firm wants to attract is important; this allows firms to develop training on a case-by-case basis. Hearing directly from people in those groups is often a powerful way of understanding customer needs for example, if a firm wants to increase customer base in a specific area that is known to predominantly subscribe to a certain orientation, hearing from the community can help uncover unforeseen barriers or institutional biases in existing firm processes.

Before effective training can be developed and implemented, the firm should conduct a self-assessment, each firm should look inward, conduct fact-gathering initiatives, assess the current firm culture, and identify any unresolved shortfalls customers face.

Q19: What are your views about developing expectations on product governance that specifically take into account consumers' protected characteristics, or other diversity characteristics?

We note that some firms already run an impact analysis of the diversity characteristics/groups, e.g., an impact analysis on vulnerable customers prior to the launch a product/service and mitigating any adverse effect and that this approach varies among wholesale and retail firms.

It would be helpful if the Regulators could provide additional guidance for firms in the design and manufacture of products across the whole range of products and services that firms provide. We also welcome any additional clarity on if the proposals will align with the MiFID II product governance process or if they apply in a broader context.

Q20: What are your views on whether information disclosures are likely to deliver impact without imposing unnecessary burdens? Which information disclosures would deliver the biggest impact?

We recognise that disclosures can add value if they provide meaningful information. Publicising diversity and inclusion progress and achievements provide transparency and ensures everyone has a shared understanding of its importance. This can help drive corporate behaviour and help influence a firm's management of diversity and inclusion. Furthermore, we recognise that where activity is measured it is also easier to be managed.

We also believe that compelling firms to be transparent, creates external expectations, from clients, investors and society and facilitates comparisons to be drawn from firm to firm.

Whilst we recognise disclosures can be helpful, we do not advocate for more mandatory disclosures. There is a risk that this may bring about prescriptive requirements and could be burdensome for firms.

Q21: How should our approach for information disclosure be adapted so that we can place a proportionate burden on firms?

We find the disclosures by BoE (including PRA) in Section 2.20 and 2.22 of the paper good examples for firms to follow.

We would also like to signpost key findings on best practices for information disclosures from the report by the Institute of Advanced study at Harvard University² on collecting diversity data and analysing them. The report highlights that transparent metrics allow stakeholders to hold top management accountable for outcomes. Making diversity numbers transparent without clear plans to address disparities may incur pressure from internal and external stakeholders. Furthermore, lack of transparency on metrics, plans, and goals will limit their effectiveness as stakeholders cannot hold decision makers accountable.

Consequently, we believe that information disclosures should be transparent with clear metrics, goals, and plans.

² What Works: Evidence-Based Ideas to Increase Diversity, Equity, and Inclusion in the Workplace Chapter 3

Q22: What should we expect firms to disclose and what should we disclose ourselves from the data that we collect?

We suggest that consistency and simplicity is key. Firms are already signed up to various commitments and it would help for the UK Regulators to be aligned with other Regulators globally. Information requested by the Regulators should be clear, consistent, and streamlined so that the information is relevant and meaningful. We suggest that information requests include information about workforce/board diversity, use of diverse suppliers, as well as information about any challenges faced in implementing diversity and inclusion policies.

This requires careful consideration as disclosure can become a substitute for action, not a driver of it.

Q23: What are your views on how we should achieve effective auditing of diversity and inclusion?

Regulators could help by setting clear guidelines for audit functions so that there is uniformity in the way firms are audited. This should include guidance for training and preparing audit teams as well as for setting clear standards. The content of the training should be one of the key areas of focus for Auditing departments to ensure it is meaningful.

We should not ask Auditors to prescribe standards. We should expect organisations to have their own standards, however Auditors could hold organisations accountable for engaging in behaviours that drive desired outcomes consistently.

Q24: How can internal audit best assist firms to measure and monitor diversity and inclusion?

We believe that the audit function can play a key role in reviewing the effectiveness of the controls that firms put in place to measure and monitor diversity and inclusion. Once a firm has set the standards that they want to meet, the business can develop the necessary policies and controls for review and assessment by internal audit.

Q25: Do you agree that non-financial misconduct should be embedded into fitness and propriety assessments to support an inclusive culture across the sector?

We note that it is already common practice across the industry to consider non-financial misconduct (NFMCI) within assessments of Fitness and Propriety (F&P).

We support the Regulators in considering this further, as currently there is no consistency in approach between firms. For example, the extent to which NFMCI falls within scope of the existing conduct rules (e.g., Conduct Rule 1 “You must act with integrity”) is unclear.

The FCA may wish to consider providing additional guidance clarity on the extent to which firms should include instances of NFMCI in regulatory references to achieve consistency across the industry.

Similarly, we would support further discussion with Regulators as to how firms should manage individuals against whom there are allegations (particularly multiple instances thereof) that do not result in formal findings but may indicate a worrying pattern of behaviour.

Q26: What are your views on the regulators further considering how a firm’s proposed appointment would contribute to diversity in a way that supports the collective suitability of the Board?

We welcome further discussion on this point, particularly regarding the extent to which the Regulators would, or could, refuse an application solely on diversity grounds. Similarly, the ability of a firm to justify an individual’s appointment on diversity grounds (assuming that the other requirements have all been met), is likely also to be challenging.

We also suggest that it may be a better measure, in some cases, to include as part of a Board-level assessment, evidence of an individual’s impact and commitment to supporting diversity and inclusion, with this considered

as a required skillset for relevant senior appointments. The commitment should be demonstrated so that this is not merely conducted as a tick box exercise.

Q27: What are your views on providing guidance on how diversity and inclusion relates to the Threshold Conditions?

We welcome guidance from the Regulators, so that firms are aware of what is expected of them and what constitutes a breach of the Threshold Conditions. As drafted, our Members thought this question was open and potentially far reaching. Members also noted that this would need to be incorporated into the existing regulatory framework.

Q28: Do you have any suggestions on which aspects of our supervisory engagement with firms that you think could be improved to help deliver and support greater diversity and inclusion?

Our Members agree that it would be helpful if the Regulators had a consistent set of questions, they asked firms in their supervisory engagement. Some of our Members also suggest that the Regulators should ensure that they have sufficiently qualified and experienced staff to correctly assess any targets imposed on firms.

Q29: What impact do you think the options outlined in this chapter, alongside the FCA's proposals for a new Consumer Duty, would have on consumer outcomes?

We would expect favourable outcomes for consumers in the retail space. This could be measured through the success of products launched for historically disadvantaged groups e.g., in services such as underwriting, lending and insurance.

We understand that the FCA's approach to diversity and inclusion will sit alongside the FCA's Guidance on the fair treatment of vulnerable consumers, as well as the new Consumer Duty. In our response to FCA CP 21/13 we suggest that the FCA may wish to consider alternative approaches that could achieve the same goal of better protection for retail clients, such as limiting the scope of the Consumer Duty to those retail clients that need additional protections and enhancing some of the tools already available to the FCA.

We remain concerned that the proposed Consumer Duty requires careful thought in the context of wholesale markets activities, and the application of the Consumer Duty proposals as drafted, appear problematic for wholesale firms for a variety of reasons provided in our response. A copy of our response is available [here](#).

We would be happy to talk through any aspects of our response with the UK regulators, if it would be helpful.

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