

## Diversity and culture, and the FCA's approach to non-financial misconduct

Over recent months, the FCA has been sending out a clear message to the financial services industry: diversity is no longer a “nice to have” but a “commercial imperative” – and firms need to listen and act in order to meet these challenges.

This messaging is part of the FCA's on-going focus on culture within the financial services industry. Major strides have been made through introduction of the Senior Managers Regime and new rules on remuneration and incentives. However rules can only go so far, and increasingly the FCA's focus is on the steps firms need to take to “create and maintain healthy cultures where people do the right thing and take responsibility for outcomes”. In assessing a firm, the FCA pays close attention on four key drivers of behaviour - the firm's purpose, leadership style, approach to rewarding and managing people and governance.

The recent focus on diversity and inclusion builds on this approach. As the regulator points out, diversity makes good business sense: it brings different thinking styles, unique perspectives to problem-solving, avoids group think and fosters innovation, all of which can positively impact the bottom line. And of course social justice requires that everyone should have a chance to develop and succeed according to their talents and ambitions, whatever their social background, gender, ethnicity or protected characteristics.

However the FCA goes further. Going forward, diversity and inclusion will be a key supervisory question for the FCA, for example in authorisation interviews, supervisory assessments and in consideration of what drives a firm's culture. An inclusive culture that values and encourages diversity is one that will have wider benefits for the organisation and for the stability of markets and outcomes for customers. Equally, a culture which tolerates serious personal misconduct, bullying, racism, sexual discrimination or sexual misconduct is a toxic work environment which discourages individuals from speaking up or challenging decisions; such a culture can lead to bad outcomes for customers, staff, stakeholders and the firm.

This does raise interesting questions as to what action the FCA can or should take in relation to diversity. To what extent is it right for a financial regulator to police non-financial misconduct? The FCA says it does intend to pursue non-financial misconduct using its new senior managers and conduct regime. No disciplinary proceedings have been brought by the FCA so far in relation to non-financial conduct issues, but clearly the FCA consider such matters as highly relevant to the fitness and propriety of senior individuals within firms: “from our perspective, misconduct is misconduct, whether it is financial or non-financial”.

Encouraging diversity is therefore something that firms need to take seriously, and will form a core part of the regulatory agenda in future. There are no easy fixes: in the FCA's words: “deciding to incorporate, say, more women in your team, is not a silver bullet. Because if those women had similar upbringings, went to similar schools and had similar career paths, then it stands to reason that their thinking will be similar too”. Instead firms need to be thinking of diversity in terms of “varied life experiences – race, age, social background, sexual orientation, education, the list goes on...while strides have been made by some firms around, for example gender, industry is falling down when it comes to social mobility”.

Firms therefore need to conduct a holistic review of their approach: for example, to re-consider their recruitment and retention strategies, set targets and establish ways to measure progress, review work methods, processes and structures, review training, consider the management of remuneration and promotion decisions, review the physical work environment to remove barriers - with all these initiatives being led with the appropriate “tone from the top” in terms of senior management commitment and communication.

With regard to addressing non-financial misconduct, consideration should be given, among other things, to issues like updating HR and compliance policies, training, and appropriate messaging about the expectations in relation to non-financial conduct and warnings to staff in relation to these issues. Again, key to the success of such strategies is senior level leadership and commitment.



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