



Response by TISA to CP23/20: Diversity and Inclusion

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About TISA

The Investing and Saving Alliance (TISA) is a unique, rapidly growing membership organisation for UK financial services.

Our ambition is to improve the financial wellbeing of all UK consumers. We do this by convening the power of our broad industry membership base around the key issues to deliver practical solutions and devise innovative, evidence-based strategic proposals for government, policy makers and regulators that address major consumer issues.

TISA membership is representative of **all sectors of the financial services industry**. We have **over 200-member firms involved in the supply and distribution of savings, investment products and associated services**, including the UK's major investment managers, retail banks, online platforms, insurance companies, pension providers, distributors, building societies, wealth managers, third party administrators, Fintech businesses, financial consultants, financial advisers, industry infrastructure providers and stockbrokers.

As consumers, the financial services industry and the economy react to and recover from the effects of the pandemic, the importance of the three key pillars of work that TISA prioritises has never been more apparent:

- **Strategic policy initiatives that influence policymakers** regarding the financial wellbeing of UK consumers & thereby enhancing the environment within which the industry operates in the key areas of **consumer guidance, retirement planning, later lifetime lending, vulnerable customers, financial education, savings and investments**.
- TISA is recognised for the **expert technical support provided to members** on a range of operational and regulatory issues targeted at improving infrastructure and processes, establishing standards of good practice and the interpretation and implementation of new rules and regulations covering **Governance, Conduct and Culture, Consumer Duty, MiFID II, CASS, ESG/RSI, Operational Resilience, Financial Crime Prevention** and a range of other areas.
- **Digital transformation initiatives** that are driving ground-breaking innovation and the development of industry infrastructure for greater operational effectiveness and revenue promoting opportunity for firms. TISA has become a major industry delivery organisation for consumer focused, digital industry infrastructure initiatives – **TISAtech** (a digital marketplace that brings together financial institutions and FinTechs for greater collaboration and innovation) and **TURN** (TISA Universal Reporting Network – a digital platform providing a secure data exchange for financial services using blockchain technology) – alongside projects **Digital ID** and **Open Savings, Investments & Pensions**. This reflects TISA's commitment to open standards and independent governance.



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Introduction and Summary of Recommendations

TISA welcomes the opportunity to contribute to the FCA's objective of improving diversity and inclusion within the financial sector, as outlined in the FCA's recent consultation. TISA is committed to assisting the industry foster an inclusive and diverse industry, aligning with the FCA's mission to ensure fair and effective markets.

The TISA response underscores the importance of an inclusive workplace and we believe consideration of our recommendations will contribute to fostering an environment where every individual feels valued and can contribute their best. We recognise the importance of diversity in ensuring the resilience and effectiveness of the financial industry. Our response aims to provide constructive insights based on our members' experiences and to contribute meaningfully to the ongoing efforts to enhance diversity and inclusion within the sector.

We are broadly supportive of the proposals made within the consultation and in particular, we welcome the shift towards Diversity and Inclusion Strategy rather than policy, since this is more reflective of the reality of the situation.

However, we would like to point out that a distinction should be drawn between the importance of supporting firms in taking action to increase diversity and inclusion, and the weak evidence linking regulating diversity and improved outcomes for consumers or financial stability. We would welcome recognition that increasing diversity and inclusion is very important, but it doesn't automatically follow that regulatory action is required or beneficial.

Please note that we have responded to all questions based on the assumption that the threshold for a firm being in scope will be 251 employees or more as proposed.

We request that the regulator considers our points set out in response to the questions in relation to:

- Application of the reporting requirements at a solo entity basis - we have set out possible challenges and a proposed solution in our response to Q.1.
- When considering scenarios relating to instances of non-financial misconduct, the threshold of 'serious' may be open to interpretation. We would welcome more examples of and guidance around such misconduct.
- We consider that evidence that a firm is working in alignment with their D&I strategy, and making improvements over time, may be more appropriate measure than hard and fast targets, and may mitigate the risks we highlight in our response to Q.8.
- We recommend that socio-economic background is included as mandatory reported data, and we believe neurodiversity needs to be considered. Further, we have questioned the relevance of data relating to religion.
- We recommend that the FCA provide more guidance around non-financial misconduct and in particular, how far back into an individual's history would a firm be expected to consider, given societal norms and culture of what is deemed acceptable conduct has changed over time.
- Whilst we understand the objectives that the FCA is setting out to achieve, we would welcome further explanation around how each of the individual reported data points will be used by the regulator in its supervisory and enforcement work.



- We recommend that the FCA should not proceed with the requirement for firms to report publicly on their D&I targets. It should be a voluntary exercise for firms to disclose their targets.

Thank you for considering our input. We look forward to contributing to the collective advancement of diversity and inclusion in the financial services industry.

TISA and our members are looking forward to continuing our support to the FCA into this exercise.

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Question Responses

Q1: To what extent do you agree that our proposals should apply on a solo entity basis?

It is possible that this approach may cause some difficulties, since separate legal entities operate within firms for a number financial, legal and regulatory reasons. In reality, these entities may operate as one governance structure where significant decisions are concerned.

Therefore, flexibility should be afforded to firms to rely on disclosures being made at group level where more appropriate.

Q2: To what extent do you agree with our proposed proportionality framework?

We agree that the proposal to define a 'large firm' as one with 251 employees or more is sensible based on this being the current definition used by the Companies Act, and associated Gender Pay Gap reporting requirements. We also agree that the existing scope of FIT, COCON, and COND is appropriate.

Q3: Are there any divergences between our proposed regulatory framework and that of the PRA that would create practical challenges in implementation?

The FCA and PRA proposals appear broadly in line and the areas in which this disparity occurs are relatively few, so we do not foresee any practical challenges. We would advise our members to plan for the most onerous of the proposed requirements that they fall into the scope of.

Q4: To what extent do you agree with our definitions of the terms specified?

We agree with the definitions included. However, we note that 'Equity' has not been considered within these definitions, or explicitly discussed in the paper. Whilst Equity is important in the broader context of diversity and inclusion, we do recognise that this is a complex legal concept. However, we would recommend that the regulator reminds firms of the importance of application of fair and transparent people policies that will support building an inclusive culture and recognise the unique needs and challenges of individuals or groups and acknowledge that different individuals or groups may require different levels of support to achieve the same level of success.

Q5: To what extent do you agree with our proposals to expand the coverage of non-financial misconduct in FIT, COCON and COND?

The clarifications and guidance which are proposed to be added to the FCA Handbook to make clear that serious instances of bullying and harassment are within scope of the conduct rules are welcomed.

However, the threshold of 'serious', in relation to instances of non-financial misconduct, and which we note does not apply more generally to misconduct, may be open to interpretation and the proposals could have a very significant unintended consequence. For example, whilst the term "bullying" can cover very serious misconduct which absolutely warrants consideration under these new rules, it is also potentially covers other forms of behaviours which may not. Allegations of 'bullying' behaviour are frequently made in the modern workplace and there is a risk that accusations of bullying, even if not reasonable or justified, will need to be investigated as a possible COCON breach.



The concept of the 'serious' threshold is further complicated by the fact that matters which arise in a person's private or personal life are outside the scope of COCON, whereas the assessment of fitness and propriety will need to take private and personal matters into account.

The statement that "misconduct in a person's private or personal life may be relevant to their fitness or propriety, even in circumstances where there is little or no risk of misconduct being repeated in work, with the justification that behaviour which is disgraceful or morally reprehensible" further adds to this complexity, since a firm must then decide on its moral standard in order to implement its framework, as well as how far into an individual's history these standards apply. The examples given only refer to fraud violence or sexual misconduct, which if course must be overlain with the concept of 'seriousness.' The burden of this judgment will fall to firms meaning that there will continue to be significant inconsistency of approach and outcome.

This may cause confusion and difficulty for scenario analysis for the purpose of compliance. In our view, uncertainty and variations in outcome would be improved (not eradicated) if further and more nuanced examples were given.

TISA suggests further examples on circumstances that would be classed as serious or morally reprehensible would be helpful and increase consistent interpretation. This could include negative examples, i.e. examples which would not be classed as serious and/or morally reprehensible.

Further clarity should also be provided on the intended timeline of when the areas relating to non-financial misconduct will formally be adopted as guidance, whether firms will have an implementation period to provide for appropriate communications and policy / process uplifts where required.

Q6: To what extent do you agree with our proposals on data reporting for firms with 250 or fewer employees, excluding Limited Scope SM&CR firms?

We agree with this proposal is proportionate.

Q7: To what extent do you agree with our proposals on D&I strategies?

Yes. We welcome the shift towards Diversity and Inclusion Strategy rather than policy, since this is more reflective of the reality of the situation.

Firms will need to gain the trust of employees to disclose data to enable them to identify and then address any issues, particularly with Inclusion. Only employees can express how they feel, and the data required to make a success of such a strategy is reliant on employees voluntarily providing the data. Firms will need to consider what a high level of declines to provide information may indicate.

However, TISA are of the opinion that the FCA should not draw negative inferences from the levels of engagement of employees in response to voluntary disclosure of D&I information, as this may be due to a number of reasons, which may not necessarily have a direct correlation with the firm's culture, or the environment of psychological safety that exists within each firm.

Further, addressing any gaps in representation of certain groups may need a variety of actions taken over a number of years.

Q8: To what extent do you agree with our proposals on targets?

We do agree that targets can be an important mechanism to provide a measure of the progress of the firm Diversity and Inclusion Strategy, and we welcome the proposal for firms to be able to set their own targets, taking into account D&I strategy and current diversity profile.

However, we would welcome the regulator reminding firms to be mindful of cultural implications, positive discrimination and wider legal considerations. There may be a risk that this potential issue is compounded by the proposal of mandatory demographic characteristics and voluntary demographic characteristics for reporting purposes. It is possible that firms may prioritise reaching targets associated with the mandatory demographics over those associated with the voluntary demographics, which over time may result in less diversity around relevant characteristics such as socio-economic background.

With this in mind, we request that the regulator considers that an alternative 'target' could be a measure of improvement over time in line with the firms D&I strategy, rather than exact number or percentages. This approach would demonstrate the firms are able to engage in affirmative action to build a pipeline of diverse talent.

Furthermore, there is a risk that if firms are required to publish and be held accountable for their diversity and inclusion targets by the regulator (and the media), they will reduce the ambition of those targets to meet them more reliably, creating the opposite effect of what the FCA is seeking to achieve.

Therefore, we recommend that the FCA should not proceed with the requirement for firms to report publicly on their D&I targets. It should be a voluntary exercise for firms to disclose their targets.

Q9: To what extent do you agree with the date of first submission and reporting frequency?

Yes, we agree.

Q10: To what extent do you agree with the list of demographic characteristics we propose to include in our regulatory return?

Yes, broadly we agree, but note the exclusion of neuro-divergence, given that it is estimated 15-20% of the world's population exhibits a form of neuro-divergence. However, please see the comments raised in Question 7.

Building and maintaining trust to secure employee buy-in for disclosing their personal data is an important key consideration for reporting to be successful and meaningful. As such, we would recommend that FCA explain the purpose of each item of demographic data they propose requiring firms to disclose, so that firms can share those detailed rationales with their employees.

Q11: To what extent do you agree that reporting should be mandatory for some demographic characteristics and voluntary for others?

We believe that socio-economic background should be included as mandatory from day one, to enable firms to measure progress. See also our response to question 8 which is linked to why we consider this to be so important.

There is a growing recognition that socio-economic background is an important dimension of diversity that can influence workplace experiences and opportunities. This also adds another layer to the

understanding of diversity within an organisation and recognises that individuals may face different challenges and opportunities based on their economic circumstances.

Individuals may experience multiple dimensions of diversity simultaneously. For example, someone from a marginalised racial or ethnic group may also come from a lower socio-economic background. Recognising and addressing these intersections is crucial for creating inclusive environments.

Socio-economic background is closely tied to issues of equity. Including this dimension in Diversity and Inclusion strategy and mandatory reporting reflects a commitment to addressing economic disparities and ensuring that individuals from all socio-economic backgrounds have equal opportunities for advancement.

Further, members have raised the questions as to whether the mandatory reporting of data on religion is necessary or has value in the context of a D&I strategy, given that the percentage of UK residents reporting 'no religion' within the UK census increased from 25.2% to 37.2% between 2011 and 2021.

Q12: Do you think reporting should instead be mandatory for all demographic characteristics?

We believe that the FCA should be clear on the purpose of any demographic characteristics that are included as mandatory in the reporting now or in the future, and we broadly agree with the proposal subject to our comments in our response to Q11. Any additional mandatory requirements in respect of reporting should be introduced over a reasonable time period, recognising that this is a journey for industry, firms and individual employees.

Q13: To what extent do you agree with the list of inclusion questions we propose to include in our regulatory return?

The questions may be a starting point for some firms, but guidance should state that firms should complement survey data with qualitative methods, such as focus groups or interviews, to gain deeper insights into employees' experiences. The survey, and responses may be too narrow to capture subtle shifts of sentiment over time.

Different firms will measure levels of inclusion in different ways that are most appropriate to their organisation. Such diversity should be welcomed and supported. If the FCA wishes to have a role in supporting inclusion, it would be better to support industry efforts in identifying and sharing successful practices.

Therefore, we would welcome firms being able to review and refine the approach based on their Diversity and Inclusion Strategy to maintain the effectiveness of inclusion surveys.

Q14: To what extent do you agree with our proposals on disclosure?

We agree and particularly welcome the provision to aggregate data when there is a risk of revealing information about individuals.

Q15: To what extent do you agree that disclosure should be mandatory for some demographic characteristics and voluntary for others?

As per our comments in questions 11 and 12, disclosure should follow the same requirements as regulatory reporting.

Q16: Do you think disclosure should instead be mandatory for all demographic characteristics?

As per our comments in questions 11 and 12, disclosure should follow the same requirements as regulatory reporting; in our members' view, this should also include socio-economic background.

Q17: To what extent do you agree that a lack of D&I should be treated as a non-financial risk and addressed accordingly through a firm's governance structures?

We agree in principle. This perspective aligns with a growing recognition that issues related to diversity, equity, and inclusion can impact a firm's reputation, employee engagement, and overall decision-making and performance, and there is a connection between Diversity and Inclusion efforts and the broader governance of the firm. Treating D&I issues as a non-financial risk reflects a strategic approach to incorporating Diversity and Inclusion considerations into the overall decision-making processes and structures of the firm.

However, the FCA should note that demographic diversity is not the only factor that impacts the decision-making process and performance. Cognitive diversity which helps reduce the risk of groupthink and helps firms understand a diverse range of consumer needs, is arguably equally as important. Therefore, we would urge the regulator to consider how this aspect can also be included when assessing the risks.

Q18: Do you have any comments on the cost benefit analysis?

The data proposed to be reported and disclosed is likely to represent a considerable administrative task for many firms. Some of the categories of data referred to may not be currently collected or monitored by certain firms and it is likely that the implementation of the necessary processes will require significant upfront investment. Therefore, we expect that the cost may be underestimated.

In light of the recent emphasis that Parliament (through the Financial Services and Markets Act 2023) has placed on improving the cost-benefit analyses of regulatory proposals, we recommend the FCA should quantify the benefits and demonstrate in a proper, evidence-based way that the benefits outweigh the significant compliance costs the proposal imposes on the industry.