Proskauer

FCA Discussion Paper: Focus on Diversity and Inclusion

July 9, 2021

The Financial Conduct Authority ("**FCA**") has recently published a discussion paper concerning diversity and inclusion ("**D&I"**) in the financial sector. In the wake of recent European Union rules on sustainable financing (see here for our latest briefings), Environmental, Social and Governance ("**ESG**") issues are notably rising to the top of the agenda for corporates, asset managers and investors. Against this background, the FCA have made their expectations clear in respect of social and governance issues within related firms and intend for diversity and inclusion to be at the forefront of the minds of boards, executives and staff in regulated firms.

In addition to recent events in the last two years, the lens has turned to the "S" and "G" in the broader ESG framework. In the United Kingdom, a more assertive supervisory focus on non-financial misconduct under the Senior Managers and Certification Regime ("**SMCR"**) and the integration last year of gender-neutral pay polices in the Dual-regulated firms Remuneration Code (see Policy Statement 20/16) are clear examples where the regulator has increased its focus in this area.

The discussion paper sets out policy options, which include:

- FCA's approach to considering diversity and inclusion in non-financial misconduct;
- the use of targets for representation;
- measures to make senior management directly accountable for diversity and inclusion in their firms;
- linking remuneration to diversity and inclusion metrics.

The FCA is also considering its approach to diversity in listed firms and intends to share more on this in the coming months.

As part of the policy work carried out in this area, the framework of equality and diversity with respect to the protected characteristics under the Equality Act 2010 will be considered. Given the overlap between governance, SMCR, employment law issues and requirements for meeting ESG-related governance metrics under disclosure rules, work in this area is likely to feed into these aspects of a firm's human resources, onboarding and compliance processes. Regulated firms should consider the topics raised in the discussion paper and consider how these issues may in due course impact its ESG/responsible investment policies and employee handbooks.

Related Professionals

- **John Verwey**
  Partner
- **Michael Singh**
  Associate