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Measures to Improve Diversity and Inclusion in Financial Services Consulted On by FCA

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On 25 September 2023, the UK's Financial Conduct Authority (the "**FCA**") published a consultation paper on the introduction of measures to improve diversity and inclusion ("**D&I**") in the financial services sector, including the asset management industry. In parallel, the UK's Prudential Regulation Authority (the "**PRA**"), responsible for regulating banks and insurers, has launched a similar consultation paper.

The FCA and PRA published a joint discussion paper on D&I in July 2021 and feedback to that paper from financial market participants and other stakeholders had generally endorsed regulatory action. The FCA and PRA consultation papers now published (after repeated postponement) follow on from that prior joint discussion paper.

The FCA's consultation paper sets out why D&I is a regulatory concern including that it should improve outcomes for markets and consumers by reducing groupthink, supporting healthy work cultures, unlocking diverse talent and improving understanding of and provision for diverse consumer needs.

The proposals include integrating non-financial misconduct considerations into staff fitness and propriety assessments, FCA Conduct Rules, and the suitability criteria for firms to operate in the financial sector (FCA Threshold Conditions).

The FCA proposes a broad range of further measures, including requirements on firms to:

- report their average number of employees to the FCA on an annual basis;
- collect, report and disclose certain D&I data;
- establish, implement and maintain a D&I strategy;
- determine and set appropriate diversity targets; and
- recognize a lack of D&I as a non-financial risk.

The measures suggested are proposed by the FCA to apply differently to firms depending on their number of employees, categorization under the FCA's Senior Managers and Certification Regime and whether they are dual-regulated by the FCA and PRA. To reduce regulatory burden, the consultation paper proposes that smaller firms with fewer than 251 employees would be exempt from many of the requirements.

For overseas firms, the measures are only proposed to be applicable to the activities carried on from an establishment in the UK.

Feedback is sought on the consultation paper by 18 December 2023, with the plan to publicize a policy statement in 2024 and for rules and reporting requirements to be applicable from 2025.

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