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18 December 2023

Dear FCA colleagues,

Diversity and inclusion in the financial sector – working together to drive change

We welcome the opportunity to respond to your consultation on Diversity and inclusion in the financial sector – working together to drive change.

The Quoted Companies Alliance *Secondary Markets Expert Group* has examined the proposals and advised on this response from the viewpoint of small and mid-sized quoted companies. A list of Expert Group members can be found in Appendix A.

The Quoted Companies Alliance represents the interests of small and mid-sized quoted companies. However, we have a strong interest in the firms that advise them and our membership consists of different types of market participants.

Please note that instead of replying to each consultation question in turn, we have presented our overarching views on the proposals contained in the FCA's consultation.

Overall, we welcome the FCA's direction of travel in this area which broadly reflects efforts already undertaken by firms to improve diversity and inclusion in their organisation. Our members recognise the need to take action to improve diversity. In recent years, we have welcomed developments in this area, such as the Women in Finance Charter and the Parker Review.

In this consultation, we are pleased to see the FCA take a proportionate approach to implementing its proposed changes and its proposed expansion of the scope of non-financial misconduct which we believe will bring much needed clarity to firms in this area.

Regarding the additional reporting requirements for larger firms, we are pleased to note that the FCA recognises that firms themselves should be responsible for identifying areas of improvements for diversity and inclusion when developing their D&I strategy.

While we consider the use of diversity targets to be problematic, we believe that enabling firms to set their own targets to be a broadly positive step, as opposed to the FCA mandating a fixed set of percentage figures that all firms must comply with.

However, we do have broader concerns in a number of areas. Specifically:

- The consultation's overemphasis on targets and demographic diversity at the expense of promoting more inclusive workplaces.
- The inclusion of sexual orientation and disability as mandatory reporting and disclosure characteristics.
- The length of the transition period for these changes to come into force.

We set out some further thoughts below on the key areas relevant to our membership:

The FCA's Proportionality Framework

We agree with the FCA's proposed proportionality framework. We believe the FCA's employee threshold strikes the right balance between the need for improvement in diversity and inclusion in financial services and the ability for smaller firms to meet D&I targets.

In particular, smaller firms will often have less individuals on their board making compliance in this area more challenging particularly when board turnover can result in significant percentage fluctuations in the board's diversity. Rectifying this can be an issue in the short to medium term as smaller firms are less able to recruit more diverse candidates in board and senior management positions due to having less resources than their larger counterparts.

Furthermore, were the FCA's proposed requirements to impact across all firms at the same time, it would likely cause a shortage of candidates, particularly for smaller firms.

Finally, we also agree with the FCA's proposals on data reporting for firms with 250 or fewer employees.

The expansion of non-financial misconduct

We welcome the FCA's decision to include the coverage of non-financial misconduct (NFM) within the FCA's fit and proper assessments (FIT), Conduct Rules (COCON) and the Suitability guidance on the Threshold Conditions (COND). We believe this will provide firms with a clearer and more consistent set of expectations around NFM. In particular, we believe that the FCA's commitment to producing guidance on NFM will give firms much needed clarity on what it constitutes. In addition, guidance will benefit firms by setting out a minimum standard across the industry.

Proposals for larger firms

<u>D&I Strategy</u>

In general, we agree with the need for establishing minimum requirements for D&I strategies for larger firms. This will make comparability across the sector more straightforward. For this, it is important that clear and comparable data is used to inform firms' D&I strategies and offers a benchmark from which their progress in fostering a more diverse and inclusive workforce can be compared.

<u>Diversity Targets</u>

Overall, we believe the FCA's proposal to allow larger firms to set their own diversity targets according to the needs of their organisation to be a broadly positive proposal and one that reflects market practice in this area[1]. However, it is important to highlight that diversity targets on their own will not necessarily lead to a truly diverse and inclusive workplace. Targets can lead to accusations of tokenism if they amount to nothing more than a tick-boxing exercise.

If too much emphasis is placed on hitting a diversity target, a firm may overlook more crucial factors in fostering genuinely diverse and inclusive workplaces such as creating a culture of inclusivity, openness and fairness. To achieve this, a firm's workforce must feel that they are treated fairly, feel comfortable speaking openly, and believe that discriminatory behaviours will be effectively challenged.

We recognise that this consultation does go some way in taking a more holistic approach to diversity and inclusion by including a requirement for firms to conduct staff inclusion surveys. However, the requirement that firms set diversity targets places the issue of inclusion as secondary and therefore fails to fully consider diversity and inclusion as a whole.

<u>Mandatory reporting and disclosure requirements</u>

We do not agree with the inclusion of disability or long-term health condition(s), and sexual orientation as mandatory demographic reporting requirements. With regard to sexual orientation, there are clear privacy concerns in this area, whereby individuals may not want to disclose this information.

For example, 40% of firms consider privacy and security concerns in relation to systems used for data collection on diversity to be a significant challenge[2]. This is reflected by the fact that 39% of individuals working in investment firms choose not to disclose their sexual orientation in the workplace. Some of the reasons listed for this include: "concerns about data security and potential bias, implications for international travel to hostile jurisdictions, limited support in the professional environment, to discomfort disclosing intimate information in the workplace."[3]

In addition, reporting on disability can be a challenge for a host of reasons. Individuals may decide to keep this information private, often due to concerns about disclosing this in the workplace. In other instances, individuals may not fully understand the broad definition of 'disability'[4].

Given the additional cost firms will incur as result of reporting on diversity targets, it is important that the data they collect is meaningful and has sufficient buy-in and support from all staff. Without this, staff disclosures against these characteristics will likely be low, compromising the quality and meaningfulness of the data collected.

Overall, we agree with the FCA's proposal for firms to disclose information on sex or gender and ethnicity and agree with the level of granularity for these characteristics. However, we do have concerns with the other areas of mandatory disclosures.

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[1] According to research from the Investment Association, 60% of firms are setting diversity targets. Of those firms already setting targets, 94% have a gender target, and 61% have established an ethnicity target.
Source: Investment Association. *Equity, Diversity and Inclusion Data Survey 2023.* (2023). p.39.

[2] Investment Association. *Equity, Diversity and Inclusion Data Survey 2023.* (2023). p. 13.

[3] Ibid. p. 19.

[4] Ibid. p.19.

As a result of the above, we also do not believe that firms should be required to disclose data on disability and long-term health condition(s), and sexual orientation.

<u>Transition period</u>

We believe that the FCA's proposal to require firms to report annually to be appropriate. While we agree with the FCA's timeframe of 12 months before reporting comes into force, we do not believe the proposed transitional period during the first reporting cycle offers sufficient preparation time for firms.

Given that 55% of firms state that existing limitations in their HR systems represent a barrier to collecting diversity data[5], alongside concerns around privacy of data collected, it is vital that firms are given sufficient time to prepare for the new reporting requirements to establish internal systems necessary to fulfil them. Instead, we propose that the FCA allow a transition period of two years under 'comply or explain' to ensure that firms have sufficient time to prepare for the changes and update their internal systems.

If you would like to discuss our response in more detail, please do not hesitate to contact us.

Yours sincerely,

James Ashton.

James Ashton
Chief Executive

[5] Ibid. p13.

Appendix A

The Quoted Companies Alliance *Secondary Markets Expert Group*

Amber Wood (Chair)	Liberum Capital Ltd
Jasper Berry	Cavendish
Andrew Collins	Charles Russell Speechlys LLP
Sunil Dhall	Peel Hunt LLP
Nick Dilworth	Winterflood Securities Ltd
Fraser Elms	Herald Investment Management Ltd
Richard Fenner	Euroclear UK & International
William Garner	Charles Russell Speechlys LLP
Jon Gerty	Peel Hunt LLP
Alex Giacopazzi	Winterflood Securities Ltd
Mitchell Gibb	Stifel
Keith Hiscock	Hardman & Co
Niall Pearson	Hybridan LLP
Jeremy Phillips	CMS
Katie Potts	Herald Investment Management Ltd
Chris Robinson	Peel Hunt LLP
Stephen Streater	Blackbird Plc
Peter Swabey	C/o The Chartered Governance Institute