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29 November 2024

Dear Dame Meg,

### **Sexism in the City**

Thank you for your letter of 18 November 2024 requesting an update on our work relating to barriers faced by women working in financial services.

We felt it particularly important to give evidence to the Committee's inquiry last January considering reports about non-financial misconduct in our industry.

As we set out at that hearing, and in our response to your predecessor committee's report, our work on diversity and inclusion directly advances the objectives given to us by Parliament, including the new secondary international competitiveness and growth objective. The UK's financial services industry is home to an extremely strong pool of talent and a key part of its continued success will be its ability to tap into and support the progress of the broadest range of talent available to it.

A corporate culture that tolerates sexual harassment or other non-financial misconduct is also unlikely to be one in which people feel able to speak up and challenge decisions, or one in which they will have faith that concerns will be independently and fairly assessed. Such a culture also raises questions about a firm's decision making and risk management, and limits retention and recruitment.

As I explained at the last accountability hearing, we have prioritised work on the link between non-financial misconduct and our rule book, while taking more time to consider responses to our consultation on diversity and inclusion proposals.

Consequently, we ran a survey asking firms in the wholesale banks, wholesale brokers and wholesale insurance sectors about non-financial misconduct. We have published a report and the data with the aim of enabling firms to benchmark their own position against their peers, and to support trade associations and firms to improve processes for identifying and investigating possible non-financial misconduct.

Below, I will take the TSC recommendations made in May in turn.

***We recommend that the regulators drop their plans for extensive data reporting and target setting. In our view, a lack of diversity is a problem that the market itself should be able to solve without such extensive regulatory intervention. Boards and senior leadership of firms should take greater responsibility for improving diversity and inclusion given that it should lead to a competitive advantage in the development of talent. Firms that perform best***

***on diversity and inclusion and have the best cultures should be able to benefit from the clear business advantages this provides, leaving those that perform badly in these areas to suffer the consequences for their reduced competitiveness and profitability.***

Our focus since the Committee published its report has been on how we should take forward our non-financial misconduct proposals as a first step, as firms and other stakeholders agree that further guidance and rules on this would be helpful. We intend to publish our final policy statement on non-financial misconduct early in 2025.

We note that the Committee recommended that both we and the PRA should drop our plans for data reporting and target setting. We are continuing to work through the large volume of feedback that we received on our wider proposals related to data collection and target setting, including carefully considering the Committee's recommendations. We intend to set out next steps in the second quarter of 2025, jointly with the PRA. This will also consider our secondary international competitiveness and growth objective, the Chancellor's recent remit letter, plans announced by the Government in relation to gender action plans for companies and to require pay gap reporting for ethnicity and disability in the future.

Some organisations that responded to our consultation asked that we consider the range of reporting initiatives already in place. We are exploring ways in which diversity and inclusion reporting might be simplified and more joined up. We are particularly mindful of the need to avoid any duplication of reporting for financial services companies.

***Given that gender bonus gaps are typically even larger than gender pay gaps, we are concerned that the removal of the bankers' bonus cap could increase the difference between the overall take-home pay of men and women in financial services, especially given that pay gap reporting appears to provide little incentive against this. We recommend that the PRA and FCA monitor this closely, and formally review the impact of the bonus cap removal on gender pay inequality in two years' time.***

We will work with the PRA to monitor the impact of the removal of the bonus cap on gender pay and inequality, observing for any unintended consequences and any impact on gender pay and inequality. In the policy statement that accompanied our final rule changes we reminded firms that their remuneration policies and practices must promote sound and effective risk management and be gender neutral.<sup>1</sup>

Firms have been reminded that they should take care to avoid adverse impacts on pay gaps when setting pay ratios. We also emphasised this in the FCA's 2023 annual letter to the Chairs of Remuneration Committees, reminding firms that they must make sure awards of variable remuneration do not discriminate on the basis of any protected characteristic.<sup>2</sup>

***Given the potential overlap between the aims of the Worker Protection Act, which will be enforced by the Equality and Human Rights Commission (EHRC), and the proposals by the Financial Conduct Authority (FCA) on handling sexual***

<sup>1</sup> <https://www.bankofengland.co.uk/prudential-regulation/publication/2023/october/remuneration-ratio-between-fixed-and-variable-components-of-total-remuneration>

<sup>2</sup> <https://www.fca.org.uk/publication/correspondence/dear-chair-remuneration-committee-2023.pdf>

***misconduct in financial services, we recommend that the EHRC and the FCA clarify how they will work together to enforce the Worker Protection Act.***

Although the EHRC is responsible for enforcement of the new duty on employers, we recognise that there are considerable areas of common interest. We regularly engage with the EHRC under our Memorandum of Understanding and are working with them to deliver training to FCA staff on the Worker Protection Act.

***We recommend that the FCA launches an awareness campaign to publicise the availability of its whistleblowing line and clarify the circumstances in which it can be used, including that nothing in a non-disclosure agreement can prevent an individual from reporting harassment to the FCA. This could be part of a wider campaign to map out the different options available to women suffering abuse or harassment in financial services.***

We recognise the importance of ensuring we are identifying and focusing on the key information whistleblowers provide. We are committed to continuing to improve our whistleblowing procedures, the way we engage with whistleblowers and how we deal with the information that they provide. Further detail on our work in this area is set out in our Prescribed Persons Annual Report 2023/24.<sup>3</sup>

In 2025, we plan to strengthen our messaging to whistleblowers and better promote the FCA's whistleblowing reporting channels. This will include providing clearer guidance on our website for whistleblowers who are impacted by a non-disclosure agreement, but who wish to report to the FCA. As made clear in the FCA's "Culture and Non-Financial Misconduct Survey Findings," we expect firms to include an explicit exclusion within their non-disclosure agreements, enabling staff to disclose matters of public interest to certain parties including us, other regulators, and law enforcement bodies.<sup>4</sup>

Our continued engagement with charity partners, such as Protect, is valuable in building awareness through an open and transparent dialogue on the current whistleblowing landscape and the enhancements we are making to our processes to improve the way we interact with whistleblowers. We also refer whistleblowers to Protect for advice on their own legal position, as do many other Prescribed Persons.

We have continued to focus on improving the quality of the whistleblowing data we publish on a quarterly basis. We use this to draw out key themes that we are seeing develop. In part this provides reassurance to whistleblowers that we are acting on the intelligence they have provided, and we hope encourages those who have disclosures relating to similar themes to come forward. We continue to look at ways in which we can best use and leverage this data as an effective part of our whistleblowing work.

We recognise whistleblowers' frustration at being told little about the outcome of their disclosure. Therefore, as part of our improvement plans, we have introduced a new approach to final feedback to whistleblowers. We sought to understand how whistleblowers viewed the feedback they received and factored the responses from individual whistleblowers into our final proposals. As a result, Enhanced Final Feedback provides more commentary and transparency regarding the activity we have undertaken to review, assess and investigate the content of the whistleblowing

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<sup>3</sup> <https://www.fca.org.uk/data/prescribed-persons-annual-report-2023-24>

<sup>4</sup> <https://www.fca.org.uk/data/culture-non-financial-misconduct-survey-findings>

disclosure. However, our feedback will, of course, continue to observe our legal and confidentiality obligations. We have also shared with the Committee this week our updated proposals in relation to enforcement transparency. We believe that being able to demonstrate that we are investigating, where it is in the public interest to do so, would help to reassure whistleblowers in some cases that we do act on their information, helping to demonstrate that it is worthwhile to make a report.

We have also improved the way we capture intelligence from whistleblowers through our webform (the most popular method for whistleblowers to make their initial disclosure). A complete review of all the questions within the webform was carried out to ensure it is written in plain English (utilising help-text to explain anything technical) and we also carefully considered the length of the form, including enough questions to get sufficient detail and to improve the quality of disclosures. The purpose of the improvements was to ensure that whistleblowers provide the best possible account of their concerns, so we stand the best possible chance of taking action where appropriate.

We also acknowledge the importance of engaging with the wider whistleblowing community. We recently participated in Whistleblowing Awareness Week, visiting Parliament to meet whistleblowing industry experts and parliamentarians to discuss the new Whistleblowing Bill. Furthermore, we have engaged with international partners, such as the European Central Bank and the Central Bank of Ireland, to discuss whistleblowing processes, operational practices, and best practice, as well as engagement with Canadian and US regulators to gain insight into their approach to whistleblowing.

***We recommend that the FCA collect data on the use of NDAs by regulated firms in cases of non-financial misconduct. This will provide a more detailed, quantitative picture of the extent of their use in financial services in harassment cases, which could provide valuable evidence to support further action.***

As explained above we have recently concluded work to survey firms in the wholesale insurance and insurance intermediary, and wholesale banking and broking sectors on their non-financial misconduct cases, including methods of detection and resolution. Respondents were required to report over a three-year period from 2021 to 2023 on their identification of alleged incidents for specific types of misconduct, including sexual harassment. It also asked about the use of confidentiality agreements when settling complaints, categorised according to the type of non-financial misconduct.

On 25 October 2024, we published a report with aggregated survey results.<sup>5</sup> This data provides an initial baseline assessment of the number and types of misconduct that we see in these sectors. We have been clear in the report that the survey data should be interpreted with caution, for example a high number of reported incidents could be an indicator of a good speak-up culture, and a low number may indicate the opposite.<sup>6</sup>

The survey showed that reported sexual harassment incidents were 8% of all incidents in the period. The data showed that the total number of confidentiality and settlement agreements signed by complainants fell over the 3 years surveyed according to the data from the wholesale banks sector.<sup>7</sup> The data from other sectors showed no clear trend.

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<sup>5</sup> <https://www.fca.org.uk/data/culture-non-financial-misconduct-survey-findings>

<sup>6</sup> <https://www.fca.org.uk/data/culture-non-financial-misconduct-survey-findings#lf-chapter-id-about-the-data>

<sup>7</sup> <https://www.fca.org.uk/data/culture-non-financial-misconduct-survey-findings#agreements>

For reported sexual harassment incidents, the survey found that the complainant entered into a settlement agreement in 3% of incidents and a confidentiality agreement in 2% of incidents.

We have clearly stated, both at the January 2024 hearing, and in the published report on the non-financial misconduct survey, that an NDA should not be used to prevent an individual from raising legitimate concerns to the police, the regulator, or a prescribed person regarding non-financial misconduct.

We published the survey data in October to enable firms to benchmark their own survey data against their peers and identify where they may need to focus their attention on improving their culture or practices. We set out our expectations of how firms should respond in the report.<sup>8</sup>

The responses to the survey will inform our supervisory work across the sectors surveyed. The data will be used to identify those firms that may not be effectively dealing with non-financial misconduct incidents or who are outliers from their peers. We have been and will continue to engage with those firms to understand their results.

The engagement we have had with trade associations and industry standard setters and their willingness to lead work to drive higher standards and share best practice across their sectors has been encouraging. We continue to partner with industry bodies to ensure that firms understand how best to meet their regulatory responsibilities.

I hope the above is helpful and am happy to expand on any of the above at the upcoming accountability hearing.

Yours sincerely,



**Nikhil Rathi**  
**Chief Executive**

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<sup>8</sup> <https://www.fca.org.uk/data/culture-non-financial-misconduct-survey-findings#lf-chapter-id-next-steps-what-we-expect-from-firms>