the payments association

connecting the future

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

Bank of England (BoE)
Financial Conduct Authority (FCA)

1st October 2021

Response from the The Payments Association

Abstract

This paper sets out the Payment Association's response to the BoE/FCA discussion paper: *Diversity and inclusion in the financial sector – working together to drive change. It contains recommendations on how to ensure the UK's payments industry continues to be fair, diverse and progressive; an industry that develops a strong environment for payment businesses inside and outside of the Payment Association's community to flourish and grow.*

1st October 2021

Introduction – The Payments Association

The Payments Association welcomes the opportunity to contribute to the Bank of England's discussion paper: 'Diversity and inclusion in the financial sector – working together to drive change' published in July 2021. The EPA community's response contained in this paper reflects views expressed by our members and industry experts. As The Payment Association's membership includes a wide range of companies from across the payments value chain, and diverse viewpoints across all job roles, this response cannot and does not claim to represent the views of all members fully.

We are grateful to The Payment Association's members and the experts they have recommended to us, who have contributed to this response which has been drafted by Jos Henson Gric, a consultant and Project Inclusion member to the The Payment Association. We hope it advances our collective efforts to ensure the UK's payments industry continues to be progressive, world-leading and secure, and effective at serving the needs of everyone who pays and gets paid.

Tony Craddock
Director General
The Payments Association

connecting the future

Introduction – Mastercard

Mastercard has quite pointedly set out its stall over the past few years around inclusion and diversity. First, we have established an overriding ethos that we should 'do well by doing good'. Second, we openly embrace and encourage diversity in background, identity and viewpoint. We do so because it is the right thing to do, and also because amongst our own people it stimulates better quality insight and decision-making. And indeed, across our huge customer base in which we serve a global market, it simply makes good business sense. In terms of inclusion, the great privilege we have at Mastercard is that we are present at the key point of purchase for millions of people, and that our business model is predicated on mobilising access to digital payments to as many people as possible. It would be fair to say that inclusion for us, therefore, is a raison d'être and existential.

What this means in practice is a commitment to work with established institutions and start-ups alike to help them implement the latest technologies and propositions that offer ever greater degrees of personalisation in service delivery. This could stretch from enabling cheap and easy access to basic bank account functionality for the less financially advantaged to providing a comprehensive payments platform for identity and value-aligned services aimed at faith, gender, sexual orientation, age or indeed any other self-defined community.

In this way, inclusion and diversity is a serious business for us. Where so much within the payments ecosystem is dependent on the trust of all its participants, we see it as critical that we are seen as an enabler and partner in delivering the myriad benefits of digital payments.

Josh Berle
Director, Business Development
Mastercard

Contents

EPA Responses

The section below corresponds to the numbering of the 'questions for respondents' in this paper.

Chapter 1: Overview, including context and desired outcomes

1. What are your views on the terms we have used, how we have defined them, and whether they are sufficiently broad and useful, now and in the future?

When discussing issues around diversity and inclusion we feel the role of the regulator is to facilitate the conversations and actions being done by those in the sector, to help harmonise a common vocabulary and way of productively addressing such a broad range of changing, sensitive topics.

The vocabulary used to discuss inclusion is constantly in a state of flux, so while it is important that everyone is 'speaking the same language' it is far more important to focus on what is being done and how it is being achieved by standout leaders in the area of diversity and inclusion - rather than the words used to talk about it.

It is our feeling that the one term that still exists as a white elephant in the debate around diversity and inclusion, is the phrase 'inclusion' itself, which is widely being moved away from by the most progressive thinkers in this area. We welcome the overall narrative and tone of this report in terms of its content, which we feel is in line with the more progressive views on diversity and inclusion, as the ultimate aim is to enable a sense of 'belonging' for each and every customer, employee and person in society.

The distinction here is between placing the onus on individuals to conform compared to facilitating the creation of safe, inclusive spaces, conversations and financial services that people can navigate and most importantly actively participate in effectively. Products designed by marginalised groups and provided by companies that not only embrace diversity, but that originate from within those diverse, minority groups in society are best placed to lead a genuine effort towards creating a sense of 'belonging'.

Such a shift in the wording used by the regulator could help to promote this shift even further especially with regards to setting policy and guidance for the sector in future, where there is a real risk of positive efforts to promote diversity in financial services descending into arbitrary binary metrics and box ticking.

Any such policies and guidance would be burdensome for the sector and highly counterproductive in terms of achieving the change that is needed and promoting high level involvement and leadership of firms that are run by people from previously 'excluded' communities.

It is our opinion that diversity and 'inclusion' cannot be created entirely from the top down, although surely there is a role for the regulator and other key stakeholders to play in facilitating the types of changes that are needed. Instead, the innovation and entrepreneurship seen amongst FinTech and PayTech startups over the past years should serve as a guiding point on how best to promote diversity and inclusion within financial services and the broader society.

Startups that come from within marginalised communities will almost always be the best place to serve them and provide the blueprints and opportunities for more widespread inclusion and diversity within financial services at every level. Every founder of a startup is a 'board' member from day 1 and well placed to hire and promote from within their community as their business thrives and grows.

Promoting diversity within innovation is surely the best way to achieve long-term change.

Chapter 2: The role of the regulator

2. Are there any terms in the FCA Handbook, PRA Rulebook or Supervisory Statements or other regulatory policies (for any type of firm) that could be made more inclusive?

It is our position that the actions, attitudes, culture and existing levels of diversity within firms, both those that are regulated and those that are operating outside of financial services, are the primary determining factor with regards to their future levels of diversity and attitudes towards inclusion.

Any regulatory terms that are specifically aimed at being 'inclusive' also inherently risk driving 'exclusion', by further categorising and labelling distinct groups and types of diversity that must be 'included' and go on to form the basis for all subsequent guidance, regulation and any diversity policies firms have internally. At worst, increasing levels of exclusion become inevitable and can harm the overall progress and positive changes that are taking place in society.

Including specific references to groups and subgroups within legal and regulatory documents inherently creates a line of exclusion, whereby people that self identified as being within a certain group may find themselves outside of it due to the prescriptive and binary nature of such legal instruments.

Firms within our membership that truly embrace diversity at every level of their business and within their customer demographic, are ones where it is ingrained in the company culture - most often because of the firm's founders, board members and their investors. Ensuring the regulatory environment allows more of these companies, founders and investors to succeed will have the greatest impact on increasing diversity and inclusion within financial services.

Chapter 3: Existing requirements and expectations

No questions

Chapter 4: Measuring progress

3. Do you agree that collecting and monitoring diversity and inclusion data will help drive improvements in diversity and inclusion in the sector? What particular benefits or drawbacks do you see?

It is our position that this will in no way guarantee the type of widespread changes and objectives that have been set out in the consultation. The collection and reporting of data on diversity and inclusion can even lead to regression of tolerance and inclusive work environments that foster a sense of belonging, by creating a latent subculture and idea that business decisions regarding employment, recruitment and internal promotions are being made on a basis other than one of meritocracy.

While such policies and data collection can help to 'name and shame' large players in the media and with increased public scrutiny, at the ground level it does little to change the underlying causes that drive exclusion and have historically prevented the inclusion and contributions of minority groups within financial services - both as employees and customers.

Drawing fixed lines and benchmarks for diversity also can be a contributory factor to the slow pace of change with regards to inclusion at some of the major financial services firms. The focus intrinsically becomes about the firm's performance in relation to a new KPI, one of many, that distracts from initiatives and efforts from within or externally to actually increase the sense of belonging people have within society and financial services.

4. Do you have a view on whether we should collect data across the protected characteristics and socio-economic background, or a sub-set?

It is our position that the collection of data about any particular characteristics, whether protected or not, is less important than what is done with that data subsequently. We welcome and fully support comments made in the consultation with regards to the importance of a bottom up approach to increasing diversity, within companies and within the broader sector. To this aim it is our position that the most important data to collect and measure is the emergence of new firms within financial services in terms of the types of firms, the diversity of their founders and investors, as well as the levels of investment into those firms as they grow.

Given that regulatory compliance and authorisation is a major part of any firm's activity within financial services, it is also important to ensure the regulator's policies and processes are inclusive and actively promote greater diversity. Investment and support for the creation of new successful firms originating from diverse communities will be the surest way to achieve the broader objectives set out in the consultation.

One example of how this could be achieved is through a new innovation sandbox exclusively focused on meeting the unique challenges and barriers faced by founders that may prevent them succeeding and innovating within financial services. Similarly, monitoring the levels of investment in regulated firms, on the basis of its 'community of origin', would be an effective way to monitor and identify the financial barriers to diversity that currently exist.

5. What data could the regulators monitor to understand whether increased diversity and inclusion is supporting better decision making within firms and the development of products and services that better meet customers' needs?

The EPA has a diverse body of members that serves equally diverse customers, via B2B/B2C channels as well as under contracts with government agencies to deliver a variety of payment related services. We operate a variety of industry specific sub-groups that produce reports, conduct direct and indirect research via our membership channels as well as publicly, much of which is focused on issues around product suitability with regard to customer need.

Our Project Inclusion sub-group has recently published reports on the future of Lifestyle Banking, as well as insights into the responsiveness of firms within financial services to the changing customer needs that have arisen during the Covid-19 pandemic. The work of Project Inclusion aims to highlight not only the successes and innovations of firms within our membership, but also within the broader payments industry and with a focus on newest emerging firms and successful entrepreneurs.

The type of data we have access to via our membership base informs our understanding of the market and allows us to gauge the level of diversity and inclusion that exists, as well as the trends and progress that has been made over recent years.

Given that context we welcome any similar efforts by the regulator to capture data that could be used effectively to promote a more diverse and inclusive sense of belonging for customers, employees and entrepreneurs within financial services. As suggested previously in our response to this consultation, we are of the opinion that the best data for the regulator to collect and monitor is data that helps to identify the barriers to the formation and growth of firms led by and originating from underserved and minority communities.

Promoting the development of diverse firms will naturally lead to diverse products, services and a diverse workforce within financial services. Examples include data on investment into early stage and growth startups, similar to the geographical data and research done by Tech Nation. Similarly, the regulator is best placed to collect and monitor data on diversity within tendering and provision of government services, as well as on performance of programmes designed to help people gain skills and employment - most notably under Universal Credit and the Kickstart Jobs scheme for young people.

Data on diversity within these areas will have the biggest impact in delivering long term change and meeting the objectives set out in this consultation.

Chapter 5: Driving and supporting change

6. What are your views on our suggestions to approach scope and proportionality?

We welcome the regulator's upfront acknowledgement of the significant challenges and additional burdens that small, innovative firms would struggle to manage - and which would likely be the result of even seemingly small changes in guidance on policy on diversity issues.

This would be highly undesirable for obvious economic reasons and with regard to the regulator's objectives around promoting marketing access and competition. However, the risks of introducing any new prescriptive regulation designed to measure, monitor and mandate greater diversity and inclusion has real risks of shutting out already excluded groups from entering financial services, especially founders of new innovative startups. Each additional regulatory instrument policy and guidance document, while helpful and welcomed by those already in the sector, adds an extra barrier to anyone outside of financial services who wishes to enter.

In this context, we would urge the regulator to *only* proceed forward with any such future plans with an approach to scope and proportionality that is not only in line with similar thresholds and categorisations for firms, but ideally one that provides even more room and clearance for small innovative firms that are not the businesses struggling with entrenched issues around diversity and which this consultation is most concerned with addressing.

On this point, our position is that any new regulatory interventions of the 'traditional' kind - such as those utilised to try and address the gender pay gap - can only be effective when paired with efforts to decrease barriers and proactively incentivise people and dynamic entrepreneurs from within marginalised communities to enter financial services. We also urge the regulator to not overlook the burdens and potential for counterproductive regression that is inherent to many of the proposed policies and regulatory approaches.

7. What factors should regulators take into account when assessing how to develop a proportionate approach?

We welcome the approach that is set out in this consultation, as it is in line with the proportionate approach firms are already familiar with. However, we would call on the regulator to take this further in terms of ensuring there are no additional barriers placed on the huge number of small and medium sized firms that are driving innovation and inclusion much more effectively than many other larger financial institutions.

In this context we would encourage the regulator to explore an approach that is based as much as possible on proportionality, with respect to a firm's current levels of inclusion and diversity, as well as their previous engagement and commitment to these issues. It is our opinion that this would help greatly to reduce the burden on firms, especially those that are already embracing diversity and inclusion within their business, or moving towards such a goal independently of new regulation. It would also set out clear leadership on the long term commitment to creating a sense of belonging for consumers, employees, employers and at every level of financial services.

Assessing the 'performance' of firms relative to their past commitments and demonstrated commitments to delivering real change, rather than 'box ticking' additional KPI metrics, will be far more effective. This is a space where we feel the regulator is best placed to lead and provide guidance.

8. Are there specific considerations that regulators should take into account for specific categories of firms?

We feel strongly that every effort must be taken to ensure that new policies and regulatory activities do not cause regression among firms that are moving towards the diversity and inclusion objectives independently.

Similarly, we urge the regulator to look beyond an approach that is aimed at 'harm reduction', in terms of the burdens and additional constraints any new requirements will undoubtedly have for the diverse and innovative small and medium size fintech firms within the EPA's membership. Instead, we feel it is important that the regulator give consideration in this area to the firms that do not yet exist.

It is our position that the most important agents for change are the founders from excluded communities that have been discouraged or unable to bring their lived experiences and commitment to diversity to the sector, growing out from their own firm to foster real long term change. Proactively removing barriers and helping to increase investment and recognition of the talents within marginalised communities will contribute greatly towards the overall effort to increase diversity and inclusion within financial services.

9. What are your views on the best approach to achieve diversity at Board level?

Diversity at the highest level of financial services is not something that can be artificially created, as the best interests of firms and the shareholders they owe a legal obligation to serve, is and always will be paramount. Therefore, we are cautious about any moves towards regulatory intervention that would aim to artificially create diversity at the top level of financial services, if it ran against the primary business objectives of a given firm.

We therefore welcome and fully support the consultation's focus on the commercial benefits that ultimately flow from diversity and inclusion. Emphasising the positive 'bottom line' impact for firms is not only possible, but also the best motivator for firms to pursue policies that increase diversity and inclusion in the areas of recruitment and at the board level.

10. What are your views on mandating areas of responsibility for diversity and inclusion at Board level?

The creation of a diverse and inclusive financial services sector needs leadership and people that embrace the benefits for them and their business, which arise from fostering a sense of belonging amongst employees, customers and at every level of company culture and decision-making.

We therefore welcome and support the consultation's clear signalling on this point and the stated intent to promote greater accountability and transparency at the Board level on these issues. While greater accountability is helpful and could drive inclusion within financial services, we urge the regulator to consider closely the risks of any such policies.

Having a named person to hold accountable for a firm's efforts to transition at speed towards becoming a more inclusive and diverse workplace, led by an equally diverse and inclusive leadership team, including the makeup and diversity of the Board members themselves. However, our position is that accountability is very similar to the consultation's consideration of targets, diversity metrics and data collection.

By naming a few chosen people as the designated 'diversity tsars' we feel there is a real risk that either consciously or unconsciously, non-named individuals may end up feeling that the issue is 'solved' and 'sidelined', or even just that it is no longer relevant to them. The knock-on effects of this could be significant and spread from the top down, negatively impacting a firm's outcomes.

11. What are your views on the options explored regarding Senior Manager accountability for diversity and inclusion?

Within the EPA's membership, which represents a diverse mix of firms within financial services, we do not find the same degree of separation and distinguishing characteristics between our members' board and their senior management. We would urge the regulator to take this factor into consideration in their approach to any such regulatory interventions around accountability, diversity metrics and data reporting.

Our membership represents some of the most successful and innovative people, businesses and products, collectively outnumbering the relatively small number of large financial institutions where such distinctions and approaches may be more effective and appropriately addressed.

In this consultation process, we duly welcome the regulator's efforts to foster an inclusive and diverse financial sector, especially at companies where the barriers to inclusion are arguably most entrenched. At the same time, we would strongly urge the regulator to not let efforts be tailored towards the issues at these institutions; while this is important, such an approach would risk saddling the rest of the sector that have higher demonstrated levels of diversity in many cases, with burdensome and potentially regressive regulations and supervision.

On issues like accountability within small firms there is an opportunity to focus on the entire top to bottom approach and commitment to diversity, rather than narrowing in to focus on issues like the accountability at the highest senior levels, as these are not so detached as at the biggest firms. While those 'traditional' top-down approaches may have an impact, we would urge the regulator to not let this be their sole and primary approach.

Instead, we call on the regulator to also and equally focus on a more progressive, proactive approach to remove barriers and increase the involvement of marginalised communities within financial services. To achieve the long-term objectives of this consultation it is necessary to foster a sense of belonging for customers, for employees, employers and most importantly, for founders from these communities.

12. What are your views on linking remuneration to diversity and inclusion metrics as part of non-financial performance assessment? Do you think this could be an effective way of driving progress?

We welcome the regulator's consideration of a diverse range of approaches that can foster greater inclusion and belonging within financial services at every level, especially those that step beyond simple reporting of static metrics on a pass/fail basis for firms that are likely to be ineffective.

In general, as stated elsewhere in our response to this consultation, we urge the regulator to proceed with caution in their approach so as not to cause regression or a sidelining of these important issues within firms and the wider public debate. Similarly, our position is that an incentives-based approach encourages firms and their senior leadership team to pursue greater levels of diversity within their organisation *because* they recognise and value the benefits of greater inclusion for themselves and in terms of achieving business growth and wider unrelated objectives.

In that context, we are supportive of further exploration and development of how remuneration with the largest firms at the highest levels might, in some way, be linked to their progress and commitment to fostering greater diversity and inclusion within their business.

While it is hard to foresee the potential benefits and effectiveness of any such policy, in principle, we support the financial incentive aspect of this approach to fostering increased diversity. This distinction and approach is based on our own collective lived experiences, those of our membership and also our 1-2-1 interview sessions with a wide range of key stakeholders.

In our view this type of financial incentive approach is more likely to encourage active engagement on issues of diversity and inclusion, rather than minimum level compliance. Furthermore, there are opportunities to 'capture' any withheld income if targets are not reached. This funding, while small, could be used to fund proactive engagement programmes aimed at facilitating entrepreneurs from within marginalised communities.

13. What are your views about whether all firms should have and publish a diversity and inclusion policy?

We think that this would place a burden on smaller firms and that it would be disproportionate to any potential benefits. Publishing policies on diversity immediately sends the signal that it is something that is inherently not included in the core business objectives and a secondary goal.

In reality, it risks reducing the level of open, honest and transparent conversations about diversity and inclusion, or worse still may even reduce the ability of firms to change from within for fear of legal costs and regulatory sanctions.

14. Which elements of these types of policies, if any, should be mandatory?

Mandating the publication of a policy has limited real world benefits and also very real risks of being counterproductive. Policies push firms and people's decisions towards compliance, rather than proactive pursuit of business activities that foster greater diversity and inclusion. Any such efforts by the regulator should be done only to complement the effectiveness of it's other guidance and activities aimed at removing barriers and increasing the diversity of the sector through new growth and innovation.

15. What are your views about the effectiveness and practicability of targets for employees who are not members of the Board?

While the intent of such targets is clearly positive, as are the potential benefits in terms of performance against a future metric for diversity and inclusion, we think any such action should be pursued with great caution and only as a secondary instrument to complement other activities. Quantifying and setting rigid targets for diversity at any level creates the risk that such targets might in some cases run contrary to a firm's best interests and legal obligations to shareholders.

Even if these risks are minimal or non-existent the understanding of those risks and the implications diversity and inclusion targets have on business decisions and operations, can create a very real and much larger impact on culture and perception within firms that is counter productive.

The primary goal and best way to drive inclusion within financial services is to ensure that the sector is inclusive and fosters innovation and growth from within diverse and underrepresented communities. We welcome the recognition of the need for this approach in the consultation and have concerns that moves towards targets and new data-based binary metrics around diversity and inclusion may mean the long term objectives and strategy ends up sidelined or forgotten in the public debate.

16. What are your views on regulatory requirements or expectations on targets for the senior management population and other employees? Should these targets Focus on a minimum set of diversity characteristics?

Any effort to quantify and specify diversity as a static legal term, is almost inherently a regressive approach contrary to fostering a sense of belonging in financial services - for customers, employees and within the culture of firms. Diversity is rooted in a sense of identity and belonging, which all are fluid concepts that change over time and place. Given that fluidity, we have concerns that pursuing policies to benchmark performance as a KPI at an industry wide level will become a distraction and potentially even counterproductive.

Issues around diversity and Inclusion are not unique to financial services, but rather a complex set of issues with deep roots that are entrenched across society. Given this complexity, there is no possibility of an immediate solution. We welcome the consultation's recognition of this fact and support a regulatory approach that is multifaceted and maintains a long term outlook, rather than targeting 'quick fixes'.

We encourage the regulator to consider what barriers exist for underserved communities that restrict not only the use and access to financial services, but also their opportunities for employment and for entrepreneurs looking to launch inclusive innovative solutions. Tangible efforts to promote greater investment and cater for the specific barriers founders might face when negotiating compliance and the regulatory approvals process are key areas where we think real, proactive intervention would likely be the most effective in meeting the stated objectives.

17. What kinds of training do you think would be effective in promoting diverse workforces and inclusive cultures?

Within our membership and through the work of Project Inclusion we have seen many great examples of firms that embrace and benefit directly from their own diverse and inclusive culture. They are able to hire talented people from communities where most firms are not actively recruiting people and their team contributes at a high level due to their own lived experiences and sense of belonging.

We would welcome any efforts by the regulator to showcase these examples and the benefits of diversity and inclusion to the wider sector, and to promote 'knowledge sharing' that allow larger senior leaders within larger, less diverse organisations to experience and embrace the opportunities for them and their business that can be achieved through diversity and inclusion. For top down policies to be effective, both within firms and led by the regulator, they must be grounded in the fostering of bottom up growth and the removal of barriers to people and firms from diverse communities.

18. What kinds of training do you think would be effective for helping understanding of the diverse needs of customers?

The needs of any consumer are best known to them and best understood by others within their community. Within our membership we see many examples of firms that have successful training programmes for their team around diversity inclusion, but they are not conducted in any way that resembles the structure of a traditional 'training programme'. These firms have embedded a culture that is inclusive and fosters belonging for employees at all levels and with their customers.

This is driven from the top down and from the bottom up, by individuals, investors, board members and senior management. It is a natural self reinforcing cycle of diversity, inclusion and success.

We recognise that firms like this are still the exception, rather than the rule, meaning for many companies a process of 'training' is needed to achieve long term culture change. It is our position that there are many more examples of firms that have highly successful training programmes they invest in and develop from within and in consultation with experts on various issues. These are areas that the business prioritises in a way that until now has not been the case with diversity and inclusion.

Setting up ridgid requirements for diversity training will be less effective than policies, initiatives and activities driven from within companies, for their benefit rather than due to a legal or regulatory requirement. The UK's financial services sector is one of the most dynamic and innovative in the world, with the latest ideas and technologies rapidly profligating from one or two small startups, up to the major high street banks rapidly.

To achieve the objectives of this consultation, we would urge the regulator to facilitate that same process and environment that allows innovation and success to happen within financial services, in the area of diversity and inclusion. A regulatory environment that supports investors and founders from underrepresented groups and communities will deliver greater diversity within financial services more broadly, most effectively and ensure it is long-lasting. There are very real tangible barriers that could be taken away and proactive measures that could be done to incentivise diverse hiring and greater investment in diverse emerging startups from within diverse communities.

19. What are your views about developing expectations on product governance that specifically take into account consumers' protected characteristics, or other diversity characteristics

In this area we feel that recent trends and developments towards promoting greater diversity and inclusion are perhaps the most positive. Both within and outside of our membership we have spoken with many innovative firms that already have a clear path and are taking an independent self-motivated path towards fostering diversity and inclusion at every level of their business.

These activities also extend to the increasing numbers of firms operating across financial services that are openly targeting underserved communities with their products and services, often led by founders that come from within these communities and will over time contribute greatly to the goals and objectives set out in this consultation.

In light of this, we do not think there is any need and would even caution against further regulator intervention on product governance, design, pricing or availability at present, in order to provide a consistent set of market conditions that best enable the continued growth and success of this new wave of firms that have set out to deliver greater product diversity for a more inclusive range of customers than ever before.

20. What are your views on whether information disclosures are likely to deliver impact without imposing unnecessary burdens? Which information disclosures would deliver the biggest impact?

The EPA's membership is arguably the most diverse group of driven firms within financial services, who both excel and rely on their effective and innovative use of data to drive and guide their business. However, in this area it is our position that the impact of information disclosures are likely to be relatively ineffective compared to other options available to the regulator in this area.

While on the face of it this may seem counterintuitive, there are several key reasons why this is the case and that make clear why data collection is likely to be ineffective.

- Data is self reported and highly personal
- Sensitive nature makes data sharing and analysis difficult

- Aggregation to ensure anonymity would limit the benefits of any data
- Diversity and inclusion are not static issues making metrics and methodologies unreliable

On this point we would encourage the regulator to take an actions-orientated approach to any efforts and an approach to increasing the collection, reporting and measuring of data on diversity and inclusion issues. It is our opinion that the type of data such as regulatory intervention and guidance would only serve to identify a problem that is well established, rather than actually contribute in any meaningful way to addressing it. This would ultimately distract attention and potentially place unnecessary costs and burdens on firms that might deter them from other activities and initiatives they would have undertaken independently to foster an inclusive and diverse culture.

21. How should our approach for information disclosure be adapted so that we can place a proportionate burden on firms?

We welcome the regulator's understanding of the burden any new activities and reporting requirements it might pursue are almost certainly going to place on a large percentage of the financial sector, including some of the most successful and innovative firms that are already champions of diversity and inclusion.

Clearly these are not easy goals to achieve but they are possible, especially in areas where data is self-reported by employees or customers, as it is their consent and participation that is required and sought, and their privacy concerns that must be listened to when collection information on the range of sensitive issues that come within diversity and inclusion.

22. What should we expect firms to disclose and what should we disclose ourselves from the data that we collect?

It is our position that if any data collection and reporting metrics were to be implemented effectively by the regulator, it would need to be based on the principles of open data and public ownership to ensure full transparency while also minimising the burden on firms of compliance and maximising the potential future utility of any data collected.

23. What are your views on how we should achieve effective auditing of diversity and inclusion?

We welcome the significant commitment and efforts to promote long term changes within financial services that help move towards fostering a sense of belonging for customers, employees and within the regulatory environment. Part of that process is the shift in focus, away from monitoring, reporting and auditing 'inclusion' as a static, non-human metric. Moving instead towards the more progressive ideas, terminology and thinking that is now prevalent amongst thought leaders within diverse minority communities.

Embracing and learning from the latest ideas that come from within communities will help foster a cohesive public debate on the issues of diversity and inclusion, in a way that delivers long lasting social change and benefits.

24. How can internal audit best assist firms to measure and monitor diversity and inclusion?

EPA members that have embraced diversity and inclusion at every level of their organisation are typically ones that also have effective processes and policies in place to ensure that they don't stray or inadvertently water down their identity and culture as they scale their business.

Typically the aim and focus of policies and procedures at these companies revolves around an embedded culture, achieved through daily engagements with staff, customers and continually reinforced through their hiring, recruitment and internal promotions. While they embrace progressive industry practices for internal staff management - such as 360 reviews, regular 1-2-1 employee led 'development sessions' and 'fear-free feedback' systems - it is not what reinforces and drives the day to day reality of a diverse and inclusive culture.

Smaller startups rely on diverse hiring policies and champion their success and commitment to hiring people from 'non-standard', minority backgrounds on the basis of their skills and contributions to the business. Another common policy is to pay staff generous 'refer a friend' bonuses for recommending great people who secure jobs with the company. Internal HR, recruitment and hiring processes also produce better results for these firms than using recruitment agencies, with many having a 'flat' and more democratic interview and decisions process for new hires, that ensures team members have a say in who they will be working with.

All of these factors are a form of audit, a daily self-administered check on the company culture while providing multiple channels for a feedback loop to ensure everyone has a voice and can express concern if they lose their sense of belonging.

We have found and featured many standout examples outside of our own membership body as there are a growing number of successful emerging Fintech start-ups that have diverse and inclusive company cultures. We encourage the regulator and other firms to follow such examples in this area.

25. Do you agree that non-financial misconduct should be embedded into fitness and propriety assessments to support an inclusive culture across the sector?

Issues of non-financial misconduct is a phrase that, in the absence of a legally defined meaning, could theoretically range from small minor infractions of company policy, such as attendance or dress code, to severe actionable misconduct by an individual, such as sexual harassment or racial discrimination.

In the latter case, it is our position that such conduct should always be taken into full consideration when assessing a person's character and suitability as an employee, first and foremost, as well as part of any additional checks and scrutiny defined for their role by the regulator. Clearly the nature of how this is applied, messaged and what guidance is set out about any such assessments is fundamental to their usefulness, reasonableness and potential impacts on diversity and inclusion.

We welcome the regulator's direction in this area and the exploration of what changes might be made to provide more legal rights and protections for people within minority communities, as well as to cement and enforce a new higher standard for conduct in financial services.

That being said, we have concerns about the potential unintended consequences of any such embedded assessment criteria that would prevent people from working in financial services on the basis of such a wide-ranging term as 'non-financial misconduct'. While the proposed application and final guidance on any such enhanced assessment protocol would be tightly aimed at presenting perpetrators of non-inclusive behaviour from working in financial services there are practical and legal limits to how effective any such guidance.

Our concerns are not just theoretical, as by allowing disqualification on the basis of non-financial misconduct, a term that in general understanding could cover a whole range of prior past behaviour that is much more prevalent amongst many of the minority communities this consultation is intended to 'include'. The subjective element, no matter how it is framed, provides the potential for non-transparent processes that historically have been often used to reduce inclusion and to discriminate against minority groups.

Furthemore, there are real risks of creating additional 'red lines', depending on the formulation, whereby highly talented candidate from a underrepresented community would get caught in the same net for behaviour in their past that has no bearing or relevance to the assessment process for suitability for a role in financial services. Given that these assessments are required on a sliding scale, relative to seniority and job role, we feel the risk of unintended consequences must be fully considered on this topic, as the consequences could be a reduction in the already low rates of diversity at senior management or board level in financial services.

There is also the potential for an 'imagined impact' of any such enhanced assessments around non-financial misconduct, whereby the potential for future disqualification - real or imagined - could influence the culture within a firm and inhibit recent positive trends in the hiring and levels of diversity at the biggest firms. Large players in the sector, most notably high street banks, are incredibly risk averse and therefore may, entirely without intent, choose to hire fewer people from minority communities to 'play it safe'.

It is our opinion that any such conduct that would merit consideration and result in a person being assessed as 'non-suitable', is something that should also be handled by firms with equal, if not greater vigilance. An enhanced assessment process has the potential to reduce *obvious* cases of undesirable, harmful and offensive behaviour, but that policing does not change the underlying causes or context that led to it or allowed it to persist.

26. What are your views on the regulators further considering how a firm's proposed appointment would contribute to diversity in a way that supports the collective suitability of the Board?

While the existing guidance and regulators framework for assessing board suitability, whether alone or as a collective group, have clearly not delivered diverse, inclusive leadership within financial services, that does not necessarily mean those suitability assessments are a primary factor.

We welcome the regulator's recognition of the role a diverse board has in setting the direction of a company, fostering greater diversity, inclusion and sense of belonging within a company culture. There are clear benefits for firms that do have a diverse board, in terms of their bottom line financial success and the contributions made by those diverse members in their success. Those firms that have diverse board members and leadership do so by choice and *because* of these benefits, first and foremost, as their primary responsibility is to employees, investors and shareholders.

Mandating any type of quotas or setting increasingly explicit definitions and determining criteria for the establishment of an inclusive and diverse board will not address the underlying causes that would otherwise have led to a board being chosen that was not suitable and unable to make a substantial push towards inclusion.

We are also concerned and ask the regulators to give full consideration to potential unintended consequences and risks that any interventions might have in this area. In preparing this consultation we conducted interviews with a number of senior executives working within financial services, to get their opinions and benefit from their lived experiences.

The overwhelming response on this issue was that they had experienced discrimination during their career at all levels, events that were clearly harmful to them and are replicated across the sector. Yet on this particular issue there was unanimous understanding that a 'policy' around diversity would not have changed past events and the proposed rules in this consultation would do little in reality to increase diversity at the highest levels.

27. What are your views on providing guidance on how diversity and inclusion relates to the Threshold Conditions?

We welcome this opportunity to encourage the regulator to proceed with an approach and guidance that is fully aware of the potential implications and new targets, metrics or reporting will have on small and medium sized firms in the sectors. This could be disproportionately burdensome relative to the positive efforts and progress made by these same firms towards fostering diversity and inclusion.

Specifically with regards to the threshold condition, we are concerned about the effectiveness of any such guidance or embedding in terms of assessing non-financial misconduct. Whether real or imagined, even just the 'fear culture' within senior management can influence their decision making and restrict their operations. Similarly, additional legal costs to ensure 'compliance' by firms despite no intent or evidence of wrongdoing would place a disproportionate burden on emerging firms within the sector.

At the most extreme this could even prevent new entrants from diverse communities and have a regressive effect on a firm's ability to foster an inclusive corporate culture due to the complex nature and dynamics of internal promotions, hiring decisions and human perceptions that are often at least partially detached from the objective reality.

Most importantly, we would emphasize that a truly inclusive financial services sector and broader society is one that embraces the inherently fluid and changing nature of 'inclusion', which is why we call on the regulator to move towards more progressive terminology when issuing guidance and developing future policy objectives in this area.

Diversity and inclusion are not easily 'measured' against static performance KPIs and legally defined meanings, as to do this may improve the present situation, but will also create a problem in the future as a new 'line' of inclusion and exclusion will have been arbitrarily drawn and enforced in people's minds and in business operations across the financial services.

28. Do you have any suggestions on which aspects of our supervisory engagement with firms that you think could be improved to help deliver and support greater diversity and inclusion?

We welcome references in this consultation to the promotion of diversity within firms from the bottom up and recognition of how important it is to proactively facilitate diversity within hiring at every level of financial services.

When adopting any new approach or regulatory activities related to increasing diversity and inclusion - including any of the areas covered by this consultation - we encourage and support that this is done in a way that is multifaceted and aimed at achieving results first and foremost. Rather than focusing solely on new data metrics, reporting, and auditing firms for compliance with new standards and policies - all of which in isolation is likely to achieve little real impact.

It is our position that the most important factor to consider is how barriers can be removed that prevent marginalised communities from entering financial services, whether as founders of new businesses that are able to better serve their own community or as employees joining firms across the entire range of financial services. Identifying these barriers and then purchasing policies and approaches that remove them will have a huge positive impact.

Ensuring these policies and initiatives are backed by funding of one kind or another is paramount, as is ensuring the funding is sustainable and allows for those within marginalised communities to contribute their lived experiences in a way that makes obvious to senior management and at board level that there are positive benefits they can release from actively pursuing a more diverse and inclusive culture within their organisation.

29. What impact do you think the options outlined in this chapter, alongside the FCA's proposals for a new Consumer Duty, would have on consumer outcomes?

While we welcome the focus on improving consumer outcomes set out in this consultation, we would urge the regulator to give greater weight to the options available at present that are most likely to have the greatest impact. Namely, including more people from within marginalised communities at every level and as leaders of companies that serve their communities and will lead to significantly better consumer outcomes for all consumers, including the most vulnerable. Technology and lived experiences are a powerful combination that the regulator should look to promote through initiatives similar to the existing FCA sandbox programmes.

About the EPA

The Payments Association, established in 2008, sets out to make payments work for everyone. To achieve this, it runs a comprehensive programme of activities for members with guidance from an independent Advisory Board of 16 payments CEOs.

These activities include a programme of digital and (when possible) face-to-face events including an online annual conference and broadcast awards dinner, numerous briefings and webinars, CEO Round Tables, and networking and training activities. The EPA also runs six stakeholder working groups. More than 100 volunteers collaborate on the important challenges facing our industry today, such as financial inclusion, recovering from Covid-19, financial crime, regulation, access to banking and promoting the UK globally. The EPA also produces research papers and reports to shed light on the big issues of the day and works closely with industry stakeholders such as the Bank of England, the FCA, HM Treasury, the Payment Systems Regulator, Pay.UK, UK Finance and Innovate Finance.

The EPA has over 130 members that employ over 300,000 staff and process more than £7tn annually. Its members come from across the payments value chain including payments schemes, banks and issuers, merchant acquirers, PSPs, retailers, TPPs and more. These companies have come together to join our community, collaborate, and speak with a unified voice.

The EPA collaborates with its licensees at EPA EU and EPA Asia to create an interconnected global network of people passionate about making payments work for all.