

6 February 2024

Dear Sir or Madam,

NOTICE TO PROVIDE INFORMATION

We are writing to require you under section 165(1) of the Financial Services and Markets Act 2000 (FSMA) to provide information related to incidents of non-financial misconduct in your firm. We are doing this as part of a sector-wide information gathering exercise and are requiring all regulated Lloyd's Managing Agents & London Market Insurers (including P&I Clubs) and Lloyd's and London Market Insurance Intermediaries (and Managing General Agents) to complete the attached survey.

Background

In our [portfolio letter](#), dated 20 September 2023, we stated that *"the wholesale insurance market in particular has a long way to go in having an inclusive culture.... Areas for improvement include... preventing and handling non-financial misconduct, including discrimination, harassment, victimisation, and bullying."*

This was reiterated by our Chief Executive, Nikhil Rathi, when, in September 2023, we began consulting on measures to improve diversity and inclusion in financial services and to strengthen expectations on how firms should manage allegations of non-financial misconduct. In his foreword to this consultation, Mr Rathi emphasised that internal cultures that promote complicity over challenge or in which allegations are ignored are regulatory concerns, affecting the objectives set for the FCA by Parliament.

Our publicly expressed view sets out that non-financial misconduct is misconduct and not an additional principle. Non-financial misconduct includes individuals' conduct for issues such as (but not limited to) bullying, sexual harassment, and discrimination whether in or outside the workplace. We are requesting data that includes incidents that took place at the office, working from home, working offsite, and social situations related to work. This can include incidents that happened in any work-related capacity or event and may include events that have been organised through work, including staff

social events, off-site training and conferences, client entertainment or sponsored events. It would not include private events organised by members of staff among themselves with no other connection to work.

We expect firms to have effective systems in place to identify and mitigate risks relating to non-financial misconduct. Should allegations or evidence of non-financial misconduct become known, we expect a regulated firm to take them seriously, have the internal procedures to investigate them promptly and fairly, and to take appropriate action when allegations are upheld.

The survey is an information gathering exercise to collect data on the volume and type of incidents of non-financial misconduct, the methods of detection and the actions taken to address these incidents within firms. The information collected will enable us to build a clearer understanding of when and where non-financial misconduct occurs, provide us with a baseline assessment of each sector and inform our ongoing supervisory work programmes.

The survey does not seek detailed information related to the specifics of allegations or investigations. We understand that not all allegations will be substantiated and that a higher volume of allegations collected by a firm is not necessarily indicative of a worse environment. We recognise that a high volume of incidents could, for example indicate that there is an effective and transparent speaking up culture within a firm. Conversely, where a firm is reporting nil-returns or a low volume of incidents, this isn't necessarily an indication of an environment that is working well. There are also a wide range of outcomes that firms could use to respond to non-financial misconduct.

This work is part of our ongoing supervisory work programme across multiple wholesale markets sectors and is linked to our focus on culture and non-financial misconduct. We may use the outcomes of this work to inform any broader learning and best practice we share across industry.

Information requested

We are exercising our formal powers under [section 165\(1\)\(a\)](#) of FSMA to require you to provide us with the information, set out later in this letter, through a Qualtrics survey by COB 5 March 2024.

Section 165 of FSMA provides the FCA with the power to require the production of documents and the provision of information by authorised persons. We may exercise our powers under FSMA for firms who do not respond.

Whilst completing the survey in full is mandatory, we understand that some firms may not have all this data readily accessible or in a structured format, which may require a manual search through HR files. If for any reason you are unable to provide all/part of the information required (for example you do not consider that this gives you enough time for compliance) please let us know immediately.

We have duplicated the questions in an appended PDF document to enable you to collate your answers before submitting them in the Qualtrics survey.

The survey asks for high-level, aggregated statistics for the following areas for the years 2021, 2022 and 2023:

- The number of non-financial misconduct incidents recorded (by type/category) and the method by which these incidents were detected (e.g., whistleblowing and surveillance within firm).
- The number of non-financial misconduct incidents recorded (by type/category of incident e.g., sexual harassment, bullying, and discrimination) and the outcomes of those incidents (e.g., dismissal, written warning, and complaint not upheld).
- The number of further outcomes recorded (e.g., non-disclosure agreements and employment tribunals).

We ask you to distinguish these statistics between SMF (Senior Management Function) and non-SMF, and any other incidents of non-financial misconduct identified that took place at the office, working from home, working offsite, and social situations related to work. We ask you to include all incidents, including those that you have not already reported to the FCA (e.g., the incident did not meet FCA reporting thresholds).

The survey also includes high level questions on:

- Regulatory references
- Governance and management information
- Appointed Representatives
- Diversity and inclusion policies
- Remuneration, disciplinary and whistleblowing policies and procedures

The survey does not intend to gather information on specific allegations. Please do not include personal information in your response or name any individuals. Our data governance and oversight will remain sensitive to any potential inference of personal information from the data, and it will inform our approach to the management and usage of the data.

The entity and FRN that this requirement applies to can be found at the start of this email. If you receive this request for multiple regulated entities within the same parent group, you may choose to consolidate your responses in one single return for all entities. If you choose to consolidate your return, please indicate so in the survey (Q3).

Data Security

We are using the Qualtrics tool, a web-based software, to collect this data. The FCA has a contractual agreement with Qualtrics for data collection and we have completed detailed third-party due diligence on the supplier, including assessing their security posture and data protection processes.

We will store the information securely and in line with our [published data strategy](#). Our [retention schedule](#) sets out how long we hold all information, including compliance with privacy laws requirements such as, UK GDPR (General Data Protection Regulations) and each area is set out in our [privacy notice](#).

Where the information we received from you firm is 'confidential' as defined in s348 of FSMA it will be treated as such. Section 348 limits the FCA's ability to disclose confidential information. Individual firm responses will be kept confidential in accordance with our statutory obligations.

We may decide to publish some aggregated data from the request at a sector or portfolio level, as part of our Supervisory work, but we will ensure that individual firms cannot be identified from the aggregated data.

Legal effect of this Notice

Under section 177(1) FSMA if you fail to comply with a requirement imposed upon you by this Notice, the FCA may certify that fact in writing to the court. If, in accordance with section 177(2) FSMA, the court is satisfied that you failed without reasonable excuse to comply with the requirement, it may deal with you as if you were in contempt of court.

In addition, the FCA may:

- issue a public censure under section 205 FSMA, and/or
- impose a financial penalty on you under section 206 FSMA, and/or
- seek a warrant to search your premises under section 176 FSMA

Under section 177(4) FSMA, giving information in purported compliance with this requirement which you know to be false or misleading in a material particular is a criminal offence. The same applies to recklessly giving information which is false or misleading in a material particular.

Should you have any questions about the survey, please contact your firm's supervisor or the Supervision Hub [firm.queries@fca.org.uk].