



DIVERSITY AND INCLUSION IN THE FINANCIAL SECTOR - WORKING TOGETHER TO DRIVE CHANGE

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The Institute of Chartered Accountants in England and Wales (ICAEW) welcomes the opportunity to comment on *Diversity and inclusion in the financial sector - working together to drive change* (the Paper) published by the Bank of England (BoE), the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA) in July 2021 as FCA Discussion Paper 21/2 on 7 July 2021, a copy of which is available from this [link](#).

This response of 30 September 2021 has been prepared by the ICAEW Financial Services Faculty with input from across the organisation. As a leading centre for thought leadership on financial services, the faculty brings together different interests and is responsible for representations on behalf of ICAEW on governance, regulation, risk management, auditing and reporting issues facing the financial services sector. The faculty draws on the expertise of its members and more than 25,000 ICAEW members involved in financial services.

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EXECUTIVE SUMMARY

ICAEW supports measures taken to promote Diversity and Inclusion (D&I). D&I is a theme of our strategy to 2030. For UK financial services firms to continue to work well, and to meet the needs of the society they serve, the sector must remove barriers, discrimination, and groupthink, and promote advancement on merit. Greater diversity and inclusion will ensure the financial services sector gets their share of the talent they need and that the best candidates do not go into other sectors. Financial services will need to evolve to meet the needs of the market, employees and society. To do so its staffing model will need to adapt and evolve too, and better reflect the society it seeks to serve.

Our positive view of D&I is based on experience. We have been collecting data on D&I since 2015 and have seen benefits from an increasingly diverse and inclusive profession, though acknowledge there is still much work to do. Such benefits do not emerge immediately. ICAEW has seen an 'education cycle'. Some respondents were initially unhappy to answer questions regarding characteristics. Recently, 'prefer not to say' selections have increasingly been replaced with defined responses. Continued monitoring and tracking of D&I metrics will build better decision-making, stronger firms, and lead to better products and services for UK consumers.

This response highlights three key items:

1. Inclusion is the real goal - without genuine inclusion, diversity targets alone risk becoming a tick-box exercise. A gender balanced board would be meaningless if one gender is not heard or if that gender is remunerated very differently.
2. This is notwithstanding that metrics have an important role on the road to supporting and building towards change and greater inclusion. We support their use in the way the Discussion Paper promotes and sets out in Section 5. Whilst the science and evidence on D&I is not wholly conclusive at this stage, it is intuitive that there are benefits of better representation from all parts of society. ICAEW applauds the regulators taking pre-emptive steps to ensure financial services firms evolve in a way that means they continue to retain their social licence as they face many threats and challenges ahead. This will be an iterative process in seeking to address known shortcomings of the current model eg, gender and ethnicity gaps.
3. Achieving the objectives of the paper will be challenging. Incumbents and detractors may seek to undermine the D&I agenda. Regulators may need to take steps to better communicate their goals, their approach and the reasons behind their actions.

Answers to the detailed questions include practical advice based on ICAEW's experience of collecting diversity information for many years. We would be happy to discuss this formally or informally with the either or all the regulators.

MAJOR POINTS

1. INCLUSION IS THE REAL GOAL

1. Diversity targets alone might risk being purely a metric without genuine inclusion: people must be allowed a voice and the freedom, confidence and support to use it. Consider a board which has hit its diversity targets to achieve key goals or metrics – and possibly to ensure that Senior Managers hit remuneration targets - but which does not allow all members the chance to express views or to provide challenge.
2. The importance of freedom to show diversity of thought and the relevance of psychological safety are clear and will help mitigate the risks of group think. Individuals need to understand that their views are valued, and that there is a culture of inclusion which allows those views to be aired.
3. There is extensive literature on how to address inclusion, groupthink, psychological safety, speaking up and more importantly listening up (firms need to respond to what is said and not take reprisals). The regulators should leverage the lessons from this body of academic work. A focus on inclusion as an outcome measure would be better than a focus on an input such as diversity.
4. The regulators have existing tools to examine the risk of groupthink. The PRA and FCA conduct board governance reviews looking at case studies on how decisions are made. This tool could be leveraged to better understand diversity and particularly inclusion. The Bank of England's Court also commissioned its own independent review of Ethnic Diversity and Inclusion. Such a tool could also be used to assess regulated firms through a S.166 review, or an early industry wide thematic assessment could help focus regulatory priorities for the sector.
5. Inclusion is harder to measure and achieve, compared to diversity. It requires subjective responses to surveys/questionnaires to attempt to gauge each individual's response to how included they feel at a particular point in time – a snapshot approach which may not be reflective of the overall picture. Such point-in-time subjectivity will make benchmarking of responses more challenging but insightful, nonetheless.

2. METRICS ARE IMPORTANT

6. ICAEW supports using metrics to measure and work towards better D&I. This is based on experience as ICAEW has been collecting data on D&I since 2015. There are enormous benefits, but these benefits did not emerge immediately and only after an 'education cycle'. Some respondents were initially unhappy to answer questions regarding characteristics, recently 'prefer not to say' responses have increasingly been replaced with defined responses.
7. Continued monitoring and tracking of D&I metrics will build better decision-making, stronger firms and lead to better products and services for UK consumers.
8. Whilst the science and evidence on D&I is not wholly conclusive at this stage the benefits of having better representation from all parts of society are intuitive. ICAEW applauds the regulators taking pre-emptive steps to ensure financial services firms evolve in a way that means they continue to retain their social licence as they face many threats ahead. This will be an iterative process, perhaps involving unproven tools, in seeking to address known shortcomings of the current model eg, gender and ethnicity pay gaps. Waiting for 'evidence' can mean action is taken too late eg, LCF.
9. ICAEW supports the proposed survey as suggested in section 4.10. When drafting the survey, it may help to consider:
 - Clarifying why certain questions are being asked and what they will achieve.
 - Regulators should be aware of sensitive questions and the impact they can have on staff. In some countries, certain sexualities are illegal or certain races or religions are treated very differently in their home country. This will be particularly sensitive for UK offices of international groups and their staff.
10. ICAEW recommends that the outcomes and findings from the metrics collected are used to drive change, where needed. By their nature D&I questions require individuals to open up - even when anonymous - but if respondents cannot see that their honesty and authenticity are driving change in their institution, they may be more reluctant on future occasions to respond. The package of tools proposed in section 5 (Board targets, SMR responsibility, link to remuneration, policies, targets, training, product governance, disclosure and regulatory measures) will be important in setting reinforcing mechanisms to deliver change in the right direction.
11. To ensure that questions relating to diversity remain relevant, firms need to be aware that terms for self-classification may change over time. Requiring people to classify under terms which are no longer approved may make some feel excluded. Regulators also need to consider how such fluidity can best be reflected in their own literature, which risks becoming stale or out-of-touch if there is not a regular review process.
12. Metrics should be defined with different working practices in mind and should consider potential disenfranchisement of those who work more from home, than an office, so may perceive and experience inclusion differently. Firms should be aware of the potential impact of metrics on those from certain socio-economic/demographic backgrounds.

3. THE ROAD AHEAD WILL BE TRICKY

Challenges in a post Covid environment

13. The proposals will be implemented in a post-Covid world where critically, ways of working have changed. This is important context which must be understood as the proposed D&I tools are implemented. The pandemic risks damaging the modest progress made on D&I in recent years.
14. Many firms are moving to a hybrid working model with staff working some days in the office and some days at home. A hybrid model may impact people differently, and could result in some groups (eg, women who are responsible for a greater proportion of caring) coming into the office less often and missing out on opportunities, promotions, pay raises and bonuses. There could also be an impact on members of multi-generational households (more likely to be of an ethnic minority background) may similarly lose visibility compared to their colleagues.
15. In response the regulators might accelerate their work and deployment of their tools or track working from home as a characteristic to be measured and managed.

Communications from the regulator

16. Incumbents and detractors may seek to undermine the D&I agenda. Regulators may need to take steps to better communicate their goals, approach and the reasons behind their actions

Regulators' Reasons

17. There are many reasons why greater D&I is needed, which can be categorised as follows:

Type A - the 'business case': greater D&I leads to better decision-making, risk management outcomes and reduces conduct risk.

18. In this regard, current evidence shows correlation and not causation. This provides an opening for dissenters to question the value of D&I and the benefits it can bring to an organisation. The regulators should be open in their communications about the inconclusive evidence base at this stage, notwithstanding the overwhelming need to 'do the right thing'.

Type B - the 'wants' (society, investors, environmental and social corporate governance (ESG) drive).

19. There is inherent value here, and there is a greater demand for D&I as part of the wider move towards fostering a positive corporate ESG agenda. However, it can be challenging to define what the desired 'end state' of diversity should be, and whether there should be different targets depending on a firm's industry, customer base, product mix, size etc.

Regulators' Goals

20. There needs to also be an acknowledgement that achieving target D&I (however those metrics may be defined) is reliant on promotion of equal opportunities at grass roots level; many professions currently recruit from a limited talent pool as a result of candidates being whittled down before application. – Whilst ostensibly based on objective criteria, this may result from those individuals not being sufficiently supported in education or through being told from an early age that certain professions do not look at candidates from certain groups. While improved D&I can help make a positive impact for the future, it may not show immediate results. It will be important to define which objectives are short-term, and which require a greater mind-set change that may be beyond the power of the regulators alone to achieve.
21. The regulators should provide greater clarity on where they see their D&I remit, how they intend to measure success, and over what timescale they expect lasting change to occur.

Regulators' approach

22. In some places the paper appears to conflate cognitive diversity with gender/ethnic/sociodemographic diversity, but they are not the same thing. A group of all white males, for example could have the greatest cognitive diversity, but would not be an acceptable group make up from an ESG or investor perspective. Equally, it is not proven that the sociodemographic/gender/ethnic characteristics are proxies for cognitive diversity so it should not be asserted or assumed that they are. Whilst one form of diversity may support the other, they are not the same thing.

RESPONSES TO SPECIFIC QUESTIONS

Question 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?

23. ICAEW broadly agrees with the definitions of 'diversity' and 'inclusion'. However, as above, it is important not to conflate cognitive diversity with gender/ethnic/socio-demographic diversity. These are not the same and should not be confused. For example, a group of all white males could have the greatest cognitive diversity and be in a position to deliver the most desirable customer outcomes, but this might not be acceptable (from a diversity perspective) if it does not meet the needs of society or investors. Whilst one form of diversity may support the other, they are not the same thing. It is not proven that the varied socio-economic or demographic characteristics are proxies for cognitive diversity, so it should not be asserted or assumed that they are. Focussing on inclusion (which should stimulate greater parity of opportunity) rather than diversity, may help with this point.

Question 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?

24. ICAEW supports the review of language for words that may be inappropriate, but this has to be balanced with common sense and the fundamental aim of conveying clearly to the reader the rules or obligations intended under statute and contract. Any words can be shown to be inflammatory and un-inclusive depending on context; but disruption in the fundamental formation of human communication can be compromised by going to excess. In the example given of 'Chinese Walls' for example this is not considered inflammatory any more than 'Indian Summer' or 'Mexican Wave', particularly as they exemplify good practice.

Question 3

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

25. ICAEW agrees with collecting and monitoring D&I data.
26. ICAEW as a regulator for legal services has been requiring the firms it licenses for the reserved activity of probate to monitor staff diversity since 2015. It collects this information on application and then every two years, the most recent of which has been at March 2021.
27. At the outset it has pursued this policy not just as a regulatory requirement (which it is under the Legal Service Board's direction) but rather a fundamental aid to firms and their staff in the development of their business strategy, markets and staff mix. At each point of data gathering, a report has been produced that compares the metrics with those shown by the Solicitors Regulation Authority for lawyers and also national statistics such as those produced by the Office for National Statistics. The report for 2019 is available [on this link](#). The 2021 report will be published shortly.
28. The data considered important for measuring is not limited to the nine legally protected characteristics. It looks at social mobility and the mix of firm providing services to the consumer be it through firm size or the mix of services they generally provide. This meets the wider diversity obligations contained in the Legal Services Act as well as competition and consumer interest aspects. The approach is particularly relevant to probate service providers as death is highly inclusive and therefore the firms need to be alive to their local demographic in order to properly market themselves.
29. It should also be recognised that the process of collecting such data, particularly in its early stages, can result in a number of 'prefer not to answer' responses. This is partly because individuals are wary of the request and need to know more about what purpose the data is being used for, and secondly it may reflect concerns about the effect of the disclosure might

be on their personal employment. The volume of 'prefer not to say' responses is an important metric in itself, as it is a measurement of understanding of the purpose of the data collection and also reflects the confidence of staff to be themselves within their organisations without fear of discrimination.

30. The data may also be important to inform policy decisions across a number of areas which may not in themselves be diversity related. The impact of Covid for example and home working has been illustrated through statistics on maternity/paternity, caring responsibilities and disability (See Challenges of a Covid environment – pg. 5). It can inform firms on the structures of their benefits packages and the location of their offices and resources.
31. The data itself does not change diversity. It however informs progress on diversity initiatives and creates awareness of the subject at management and staff level. There is a requirement under the Equalities Act for regulators to have 'due regard' to diversity and inclusion. A requirement that ICAEW has of the firms that carry out the monitoring is that they summarise the results at the appropriate level of detail on their websites, alongside their diversity policy, and in submitting the data to ICAEW as a regulator set out the key conclusions they have reached on viewing the data. This ownership creates due regard within the firms and provides a platform then for them to build their business.
32. A potential drawback in collecting data is the sensitivity around it and the demanding requirements of GDPR. Firms and regulators need sound policies and IT systems in place to secure the collected data and this might prove a challenge, especially in organisations of less than 20 personnel who generally do not have a separate HR department that would assure confidentiality. ICAEW has drawn on an outsourcer that has collected the data on behalf of several firms and fed back the summary results to them so that staff confidentiality is preserved, and minimum risk is incurred by the firm and regulator.
33. Another potential drawback might be the time and effort organisations will have to spend to collect the data as well as providing rationale for the data collection; however, given the importance of this topic, these drawbacks to be acceptable.
34. A different type of drawback could be employee attitude to collecting aspects of the data, seeing this as unnecessarily intrusive. This could be mitigated by guidance on the rationale for collecting the data.

Question 4

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

35. The following data points are collected in relation to ICAEW students:
 - Gender
 - Ethnicity
 - Disability
 - Socio-economic status
36. ICAEW is in the process of adding the following characteristics to the data collection:
 - Gender identity
 - Sexual Orientation
37. ICAEW has further considered collecting data on the following in the future:
 - Religion/Faith
 - Maternity/Paternity status
38. Data across all protected characteristics (including socio-economic background) should be collected to give the clearest picture of diversity.

39. The collection of this data for organisations that have not dealt with it before can be challenging, both logistically and culturally. ICAEW initially started with questions covering a few of the characteristics, then developed more comprehensive questionnaires in subsequent years, covering all nine characteristics for the first time in 2021. The guidance issued by the Legal Services Board in 2011 provided a sound starting base set of metrics. When the process becomes embedded with firms then a more sophisticated approach can be applied, with drill downs guided by the initial results.
40. It is not easy to measure progress without hitting additional GDPR confidentiality issues, but a three-dimensional data model that tracks reporting of the characteristic ratios across grades in a firm or organisation can, over a period of say six years, identify if patterns in the junior grades in initial years are carried through into higher grade levels in later years. This is the basis of data gathering by ICAEW and the SRA, but it is still developing as a metric because of the timescales involved.

Question 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?

41. The matching of a firm's mix of staff against the local demographic is an exercise that can lead to improved and better targeting of services by a firm into its local community, aided by recruitment of staff with similar characteristics or trained in the relevant culture to be able to offer empathy as part of the customer service. This is part of the messaging ICAEW gives to its probate registered firms as the probate service has demand across all characteristics.
42. The regulators have existing tools to examine the risk of groupthink. The PRA and FCA both conduct board governance reviews looking at case studies on how decisions are made. These tools could be leveraged to better understand diversity and inclusion. The Bank of England's Court also commissioned its own independent review of Ethnic Diversity and Inclusion. Such a tool could also be used to assess regulated firms through a S.166 review, or an early industry wide thematic assessment could help focus regulatory priorities for the sector.

Question 6

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

43. ICAEW agrees that proportionality should apply so that metrics can be benchmarked across like industries and, within those industries, allow comparison of like firms. Classification along the lines of the SMCR could facilitate this, but using company sizes as a way of benchmarking like-sized firms is also logical; however, this approach needs to take into consideration qualitative factors which may influence the availability of a diversified talent pool (eg, urban vs rural location).
44. No companies should be exempt completely from understanding and promoting D&I within the organisation, but smaller companies might not be able to report on D&I data due to confidentiality concerns, or might not be able to achieve D&I targets as quickly due to lower staff turnover. Smaller companies may have very different D&I targets to larger companies, reflecting their ethos and background.
45. Where a firm is small and has few employees, it has limited options in its employee choice and the demographic is inevitably skewed. In ICAEW's experience smaller practitioners also tends to have built up a sustainable income from existing contacts meaning there may be little need to seek wider markets through diversity.
46. Depending on the ultimate objective of the regulators the application of proportionality may change. One of the objectives required by the Legal Services Board is to measure what is happening within the profession as a whole. A significant number of firms in the sector are sole practitioner and this is also the case for ICAEW firms registered for probate. However, the sole practitioner is as much an element of the diversity in the profession itself as well as

the major firms. The LSB therefore encourage data collection from firms large and small in order to build this picture.

47. The consumer interest and diversity objectives in the Legal Services Act also put an effective obligation on the licensed individual be they sole trader or large firm to reach out to under-served markets. The diversity data collection is a methodology and template for the smaller firms to make progress against those specific objectives from a fresh perspective.
48. In ICAEW's experience once firms (including smaller firms) have got used to the methodology and are assured of confidentiality (for example through using a trusted outsourcer for data collection) they provide the data more readily and address diversity policy at the proportionate level within their websites and marketing literature.

Question 7

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

49. The regulators need to have due regard to the size of the firm and a clear understanding of the regulators' ultimate objectives. One factor explored in the paper is whether the touch point should be only into the financial services departments of the firm or look at the firm as a whole even though some or a large part of its services may not be financial services related, for example car dealers.
50. ICAEW's approach to probate firms (where the regulatory requirement issued by the LSB strictly speaking is confined to those who provide probate services, which is a very small number in each firm) is that the whole firm should be reported on. . This is partly because the consumer will see and feel the empathy of the wider organisation when a customer eg, through reception and secretaries as well as the person actually supplying the service. A second aspect is that the service supply of the firm is multi-disciplinary and the client may buy a bundle of services which include one or more legal services. This aspect is relevant to the FCA when considering the reporting of firms licensed under part 20 of FSMA.
51. A further factor is the profiling of individuals versus firms. ICAEW has found that only 30% of the staff of the firms it licenses for probate are ICAEW members. Therefore, as a separate exercise it is looking to build up diversity profiles of its membership. The relevance of the data depends on what objectives the bodies are seeking to achieve, and which metric source may best illustrate that.
52. The disclosure requirements of firms within their business and on their websites needs to be addressed practically to balance GDPR, privacy and diversity requirements. ICAEW as a standard requires firms to publish on their websites the results of their diversity monitoring alongside a policy statement but provides exemptions from the data disclosure where it is too transparent and individuals can be identified. In such circumstances generic sentences outlining the dynamics without specifically disclosing ratios is permitted.

Question 8

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

53. As noted above the regulator needs to consider where the policies need to be applied and how they are measured through diversity data. A different approach may be required for those directly licensed by PRA/FCA/BoE as against those that are licensed for incidence under part 20 of FSMA.
54. Some organisations may be reticent to certain types of monitoring or pursuing certain diversity policies, and in some jurisdictions doing so is illegal, which may impact how the UK branch or subsidiary of a non UK headquartered firm, is able to respond. For example, religious based organisations might find conflict in dealing with other faiths or sexual orientations. Whilst some recognition is required on the constraints of policy ICAEW would still suggest the monitoring questions are asked, as the 'prefer not to answer' or 'no' answers are in themselves useful evidence base of the wider market.

Question 9

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

55. ICAEW supports investment in long-term research which provides solid evidence of a causal link (not just a correlation) between board diversity and board effectiveness.
56. The benefits of a diverse board should be self-evident as well as self-serving: a diverse board will understand the challenges which a diverse workforce and customer base are facing and will make decisions accordingly. A diverse board also increases an organization's credibility with regards to its own visible commitment to D&I.
57. Reverse mentoring and/or the appointment of external non-executive directors (NEDs) from different backgrounds could be considered as an interim measure to provide diversity of opinion to Boards in the short to medium term, whilst enough diverse talent is promoted to senior levels.
58. There is also a role for the Financial Reporting Council to greater emphasise the 'worker director' option in the Corporate Governance Code.

Question 10

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

59. ICAEW believes Senior Managers should be accountable for D&I and supports having D&I as a recurring item on Board agendas.
60. Boards should set the D&I strategies and policies for their firms. If policies are driven from the top, then initiatives will be more effective. This approach should be complemented by making all managers (and, in fact, all employees) responsible for D&I. This may include mandatory D&I training or making D&I a mandatory part of performance reviews.
61. One size will not fit all; for example, the diversity of the local community where a firm operates may need to be reflected in that firm's strategy and policy. However, the extent of future regulatory reporting is bound to be the minimum standard for firms.
62. NEDs should oversee progress by management (executive directors). In order for NED' oversight to be effective they must be able to make historic comparisons, so wherever possible firms need to take a consistent approach to how data is collected and reported. Having said this, the nature of the information itself (that is to say the types of diversity covered) is likely to expand over time, and this may necessitate variations in how data is collected and reported.

Question 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?

63. The 2021 annual review of the Women in Finance Charter provides evidence that this link is already being made for gender diversity, and that only 5% of signatories to the Charter have reported that they believe the link to remuneration not to be effective. ICAEW do not have any reason to question these findings or to query whether other areas of diversity would benefit from the same approach.
64. Discussing D&I metrics should be part of performance reviews for all hiring managers. A linear and direct relation between diverse hires and remuneration might prove problematic but hiring managers should be required to comment on the diversity of their hires in performance reviews.
65. It would be helpful if regulators could provide insights on good practice, especially the relative merits of individual versus collective objectives or how to correlate the two, plus how to appropriately adjust remuneration for poor performance on D&I.

Question 13

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

66. All firms should have and publish such a policy. This will be an evolution of firms' existing work on diversity and inclusion. The regulators could also encourage firms to reflect the importance of diversity and inclusion in their strategies which are routinely published.

Question 14

Which elements of these types of policy, if any, should be mandatory?

67. From a regulatory perspective ICAEW does not think any elements of policy should be made compulsory. Market conditions combined with the intelligence from monitoring will direct the firms in best practice at a proportionate and targeted level.

Question 15

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

68. Realistic targets are helpful at every level.
69. It is important to foster a diverse pipeline to ensure there is enough diverse talent ready to take over senior leadership positions. Targets will potentially be more effective at levels below Board level, as talent has not been lost throughout the pipeline at this stage.
70. One of the arguments for diversity is 'representing diverse clients' or mirroring the society that you serve. Often, it is junior employees, rather than senior leaders, who deal with clients, and hence diversity at this level is as relevant as diversity at board level.
71. The effectiveness and practicability of targets for Board members has already been proven by the success of voluntary initiatives. Therefore any objection to extending targets to other employees, say to senior managers or employees in customer-facing roles, must be weak.
72. To achieve diversity at Board level, a firm must have the right policies in place when it comes to junior hiring and staff retention across the grades. Evidencing recruitment policies which promote D&I throughout the ranks, rather than focusing on the senior ranks, indicates a genuine commitment from the Board to changing the culture of the firm and promoting the right tone from the top. This will also feed through to provide a greater pool of C-suite talent with sufficient diversity for the future, where arguably there is currently a dearth of diversified talent as firms have not been sufficiently proactive to date in encouraging such diversity.
73. As noted earlier, regulators need to consider that while Board diversity can be achieved in the short-term through recruitment of staff which provides socio/racial diversity, this may not provide the necessary change to the cognitive diversity where required to promote better outcomes for customers.

Question 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?

74. The focus and targets might be more on awareness rather than characteristics. A key challenge for diversity in the workplace is less on recruitment but rather more on retention and progression. The barriers here tend to be in middle management and the metrics they use to recruit and progress their staff. A focus on training of these individuals both with mind sets and the intended culture of the organisation may be better objectives to enable better progression and consequent better diversity at senior level.

Question 17

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

75. ICAEW's Academy of Professional Development is currently looking into offering the following D&I training sessions, due to demand from businesses:
- Unconscious bias training (despite mixed evidence this is a good starting point)
 - Allyship/Active Bystander training
 - Inclusive language training
 - Cultural Intelligence training for global firms
76. Other training topics to consider would be Inclusive Recruitment and Inclusive Leadership and Management.
77. Whilst unconscious bias training may have developed a negative connotation, more positive approaches to training include these topics: inclusive leadership; managing mental health and wellbeing for leaders; managing working environments for neurodiversity and disability; managing 'accidental ignorance' etc.

Question 19

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

78. ICAEW is in favour of taking into consideration the different needs of customers with different protected characteristics. It is the right thing to do, and makes business sense.
79. The vulnerability lens is the most appropriate one when considering product governance. This may require changes in products or sales techniques. Product governance should ensure that vulnerabilities that are particular to a product are considered and addressed. Examples could include advanced age that make some long-term bonds likely to be unsuitable; requirements for online access and information that don't take account of access to and confidence in using digital services; some income-generating investments that don't consider the effect of how income is paid on entitlement to disability or other benefits.
80. As an additional example, ICAEW run student recruitment initiatives for particular groups of minority students, taking the needs of different minority groups into consideration.
81. ICAEW has recently introduced online learning materials rather than books. These facilitate a more inclusive approach through allowing users to change background colours, font sizes, and audio. This increases accessibility of the materials, which is particularly relevant to people with disabilities.
82. ICAEW has produced D&I guidelines for the Student Support Team, which is equivalent to a Customer Support Team. These guidelines mandate that all D&I-related questions and requests will be escalated to the D&I Team, to ensure that specific needs are taken into consideration in our services.

Question 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?

83. Whilst disclosing data would require additional efforts on the part of organisations, it would foster transparency and open conversations. Mandatory gender pay gap reporting is a good example and could be expanded upon to also show, inter alia, ethnicity pay gaps and disability pay gaps.
84. The equality duty under section 149 of the Equalities Act 2010 requires regulators to have 'due regard' to the three elements of diversity. By requiring firms to make a simple disclosure on diversity on their website or market literature, and disclosing monitoring data where not

sensitive, this achieves the due regard obligation both at a regulator and firm level. These requirements are not burdensome and once in place do not require a lot of effort to sustain.

Question 21

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

85. Previous paragraphs set out how information disclosures by firms can be approached and proportionate.

Question 22

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

86. Previous paragraphs set out how information disclosures by firms can be approached and made proportionate. In the case of the regulatory body there should be a collation of the data, summarisation and a brief overview of thematic trends. The data is in itself an evidence base for policy and could be used to demonstrate achievement of policy objectives over time, or a starting position on which to seek change. ICAEW publish the results of their biennial monitoring of probate firms and make this report openly available to all relevant stakeholders.¹

Question 23

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

87. There are strong parallels and overlaps with auditing culture; for example, a culture that ensures that all individuals are heard and offers flexible working practices is critical for D&I.
88. Both areas are challenging to audit, but the FCA can support internal auditors by providing clear regulatory definitions and by redirecting some of the focus towards the role of human resources who may still regard audit as limited to financial matters. 'Moments that matter' should be important to human resources and internal auditors (for example, recruitment and promotion decisions).
89. Auditing inclusivity is particularly challenging, so in reality there may have to be a trade-off between what matters and what is measurable.
90. In ICAEW member experience, companies are receptive to adding and augmenting internal audits, as well as refocusing the internal audit plan to address risks which are areas of focus for the PRA, FCA and Chartered Institute of Internal Auditors.
91. Effective auditing of the risks arising from failing to have an effective D&I programme (and of an inadequate governance, risk management and controls framework to ensure the effectiveness of such programmes) may be achieved through both a thematic enterprise-wide assessment audit, and augmented risk-based audits, as summarised below.
92. An essential first step in the approach to auditing D&I is through an enterprise-wide thematic assessment of the holistic design of the D&I programme, from the strategic positioning of the company (its goals, risk appetite framework, policies and procedures) and the identification of accountability and responsibility across the company. It is in this audit that the appropriate accountabilities and related risk and performance metrics would be identified and validated, prior to the audits of the performance and outcomes achieved in the respective product, service, infrastructure, and utility focused audits described below.
93. The complementary internal audit component is achieved through augmenting internal audits of a company's provision of products and services to address D&I risks (as well as other relevant ESG risks), and the enabling infrastructure and utilities to assess the effectiveness of the D&I programme. These audits should identify and detect the effectiveness of the

¹ Probate diversity data collection | ICAEW

implementation, embedding and sustainability of the D&I programme at the company. The frequency of the 'business as usual' risk-based audits of the product- and service-related activities and the supporting infrastructure should give a regular pulse-check on the efficacy and effectiveness of the D&I programme across the company, and may readily identify desirable, and undesirable outcomes and data points to measure progress or otherwise.

94. Together this combined program provides both the base-line expectations set by the board and the accountabilities for management across the group, and a regular, structured assessment of management's achievement of the board's expectations.
95. Effective auditing of D&I should be governance, risk management, controls and outcomes based. Of these, outcomes are the most important, but without appropriate governance, robust risk management, and effective controls, it may not be possible to achieve sustainable and compliant outcomes.
96. A lack of diversity is an organisational risk as relevant as any other risk and, as such, an internal audit should examine whether a full risk assessment has been performed and whether controls are designed and operating effectively over all the risk elements resulting from a lack of diversity. Accordingly, the risk taxonomy of the company may need to be adjusted to ensure inclusion of D&I, as well as other risks within the range of ESG risk exposures of a company. In addition, D&I audits should have sharp attention to sustainable outcomes and should review the extent to which diversity has been both increased and will continue within a dynamic commercial environment. The inherent D&I risks, the effectiveness of the risk mitigants, and whether the residual risk is within risk appetite must be clearly articulated by management and assessed by internal audit.
97. ICAEW notes that there is a plan in the discussion paper for a pilot data survey to collect data on D&I and would recommend that firms, going forward, are required to provide more regular data to the board, regulators, and in the case of public companies, shareholders and the general public on D&I. From our members' experience, companies ask their internal auditors to review the controls over the completeness, accuracy and timeliness of their regulatory returns, especially given the PRA's and FCA's recent announcement that they will focus more on using firm's data to regulate the marketplace, as well as the efficacy of the controls surrounding public disclosure of information. Increased regulatory returns on D&I and public disclosure will both have a positive impact on achieving improvements in D&I in regulated institutions.

Question 24

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

98. Collecting and analysing data shifts the diversity discussion from anecdotal to evidential. From our members' experience, companies often find it challenging to identify metrics to measure and monitor D&I behaviours, culture, bias and inequities.
99. It must be emphasised that the board and management are responsible and accountable for identifying risks, establishing appropriate measurement of those risks, as well as managing the risks and ensuring that effective controls are both established and maintained to ensure the organisation operates within the established risk appetite, even as it regards D&I.
100. Internal audit is in prime position to evaluate practices developed by management and communicate leading practices within a company. Conversations tend to be about diversity rather than inclusion because diversity is easier to achieve and measure, but internal audit has been effective in increasing the extent to which challenge is encouraged at Board and management level and all ideas and counter views are given adequate attention. There is an increased awareness of the dangers of groupthink, and an effective internal audit function will provide credible challenge to avert groupthink.
101. Internal audit has the vocabulary and the skills to conduct open and constructive conversations about sensitive subjects such as race, gender and the other protected classes during the internal audit process. Internal audit has a role to play in promoting diversity with key governance committees; for example, low paid staff on customer conduct committees

who have a better understanding of potentially financially vulnerable customers, and pensioners on pension trustee boards who have a better understanding of the needs of members.

102. Internal audit is well positioned to challenge boards and management, to heighten expectations, and most importantly, to hold management and the board to account to set an appropriate strategy identifying vision and goals as regards D&I, determine metrics including both performance and risk indicators (KPIs and KRIs), establish appropriate risk management processes and effective internal controls, and to report conformance with, or deviation from the established goals, policies and limits.

Question 25

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

103. Yes, the suggested approach of including behaviours that threaten an inclusive work culture (eg, bullying, harassment, discriminating behaviour) in the definition of 'non-financial misconduct' seems sensible.

Question 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?

104. The Legal Services Board (LSB) have set out a series of performance standards associated with diversity which have proved a useful template for the front line legal services regulators to develop their diversity strategy and approach.² Regulators are required to update the LSB annually on progress against these standards. The regulators in turn indicate certain expectations of their firms in this regard.
105. The engagement of firms licensed for probate in the diversity area has been enhanced by a solid communications programme. The webinars held in anticipation of data collection have been well attended and the questions raised have been constructive and engaging rather than challenging.³ These have been useful medium to support greater diversity and inclusion.

Question 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

106. As noted in the answers to earlier questions, it is particularly beneficial for the consumer to have engagement with a practitioner who has empathy with their culture, either through being a member of it or having had relevant awareness training. The UK is becoming an increasingly diverse society with varying needs at a financial services level. Diversity monitoring as a tool alerts the practitioners to these dynamics and encourages a marketplace more aligned with the mix of consumer through common demographic.
107. It should be noted that ICAEW licensed probate practitioners under the objectives contained in the Legal Services Act⁴ are required to have regard both to diversity and consumer interest. The initiatives ICAEW undertakes therefore have this balance at the heart of their regulatory process.

² [2017_Encouraging_A_Diverse_Workforce.pdf](#) (legalservicesboard.org.uk)

³ See for example [2021 Probate Diversity Survey Webinar: Your questions answered](#) (streamamg.com)

⁴ Legal Services Act 2007 sections 1(d) and 1(f)