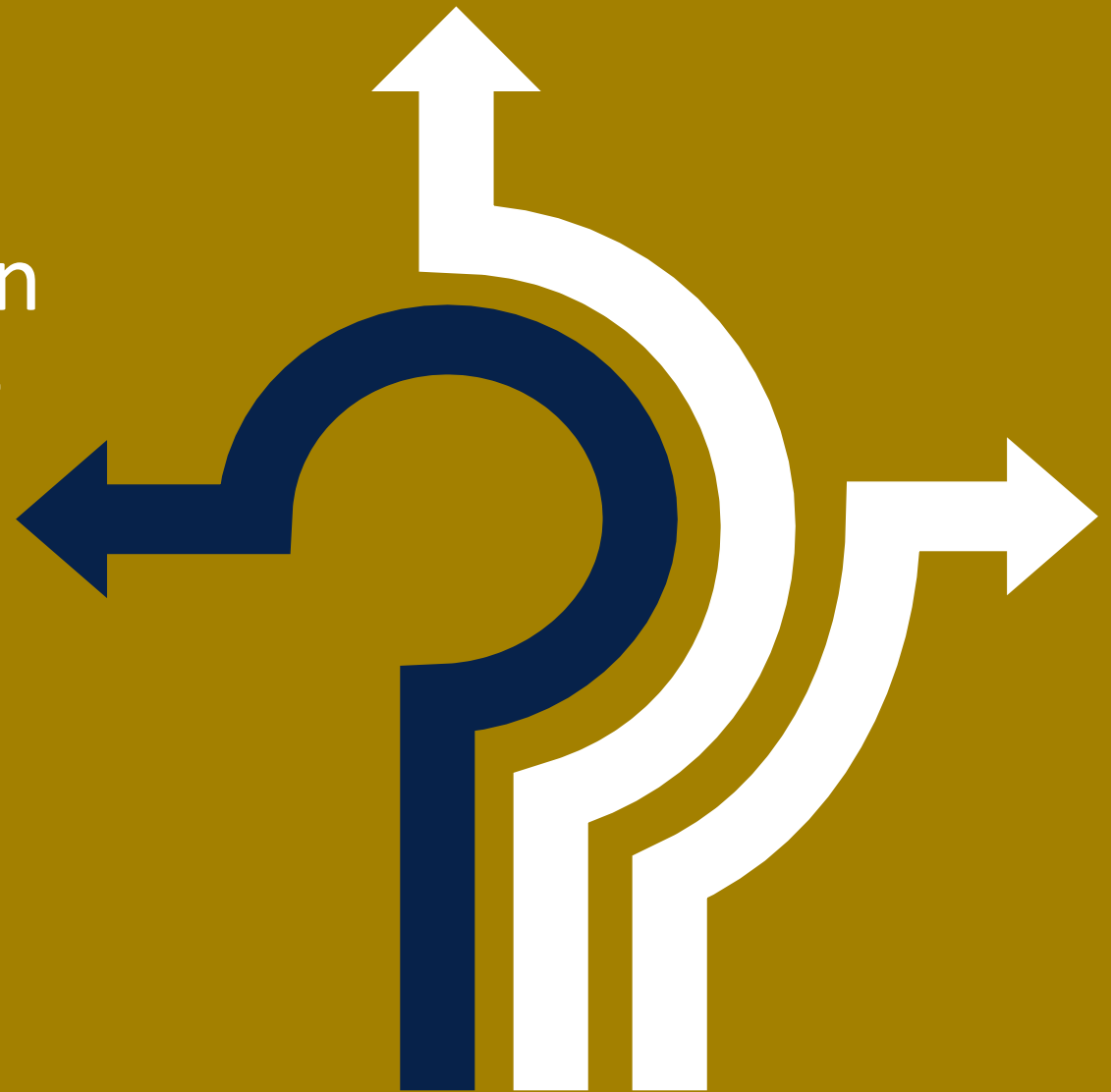


# FCA proposals on Diversity and Inclusion in the financial sector

15 NOVEMBER 2023  
HENRIIKA HARA



# Overview

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**1** Introduction

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**2** D&I proposals for all firms

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**3** D&I proposals to firms with over 250 employees

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# Introduction

- Level 20's advocacy objectives include contributing to public and regulatory dialogue on DEI in financial services. Involved in [BVCA response](#) to FCA's discussion paper in 2021.
- The FCA's proposals come at a time of increased scrutiny of behaviours in FS.
- [Level 20's guidelines](#) include:

*Creating an inclusive culture: Create avenues for minority voices to be heard and acted upon in a psychologically safe environment, and opportunities for all to participate in firm networks.*

*Improving leadership skills and behaviour: Challenge behaviour that acts against the firm's commitment to diversity, equity and inclusion, with role modelling of behaviours starting at the top.*

## Parliament launches new inquiry into sexism and misogyny in the City

**Treasury committee requests evidence from women in business to determine whether progress has been made since its 2018 investigation**



📷 The City of London financial district. Photograph: Howard Kingsnorth/Getty Images

A parliamentary committee is renewing an inquiry into sexism and misogyny in the City after a spate of sexual harassment allegations rocked the business world.

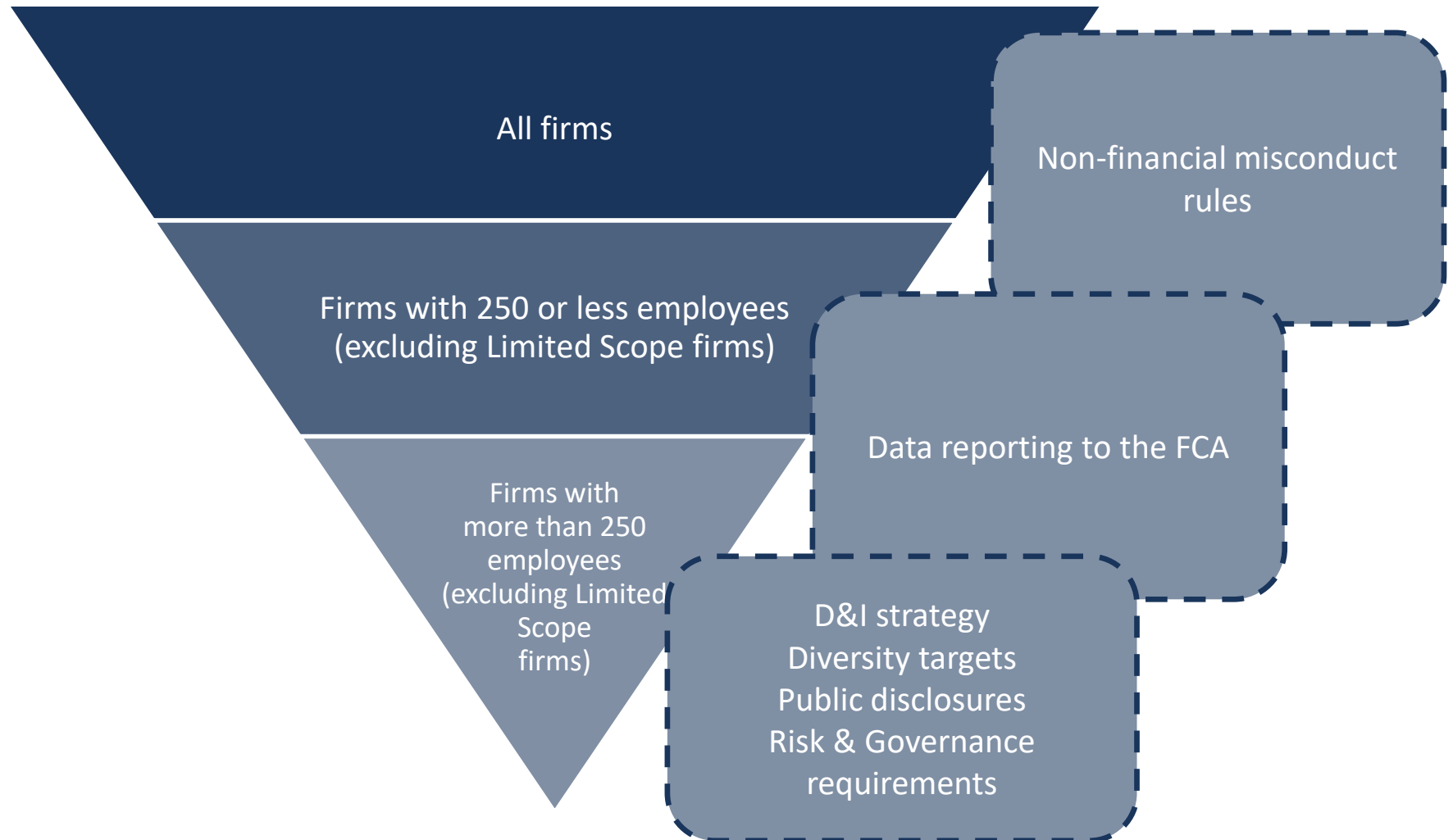
*Source: [Guardian, 14 July 2023](#)*

# Introduction – FCA proposals

- Long expected proposals
- Aim to improve outcomes for consumers and markets by:
  - reducing groupthink
  - supporting healthy work cultures
  - unlocking diverse talent
  - improving understanding of and provision for diverse consumer needs

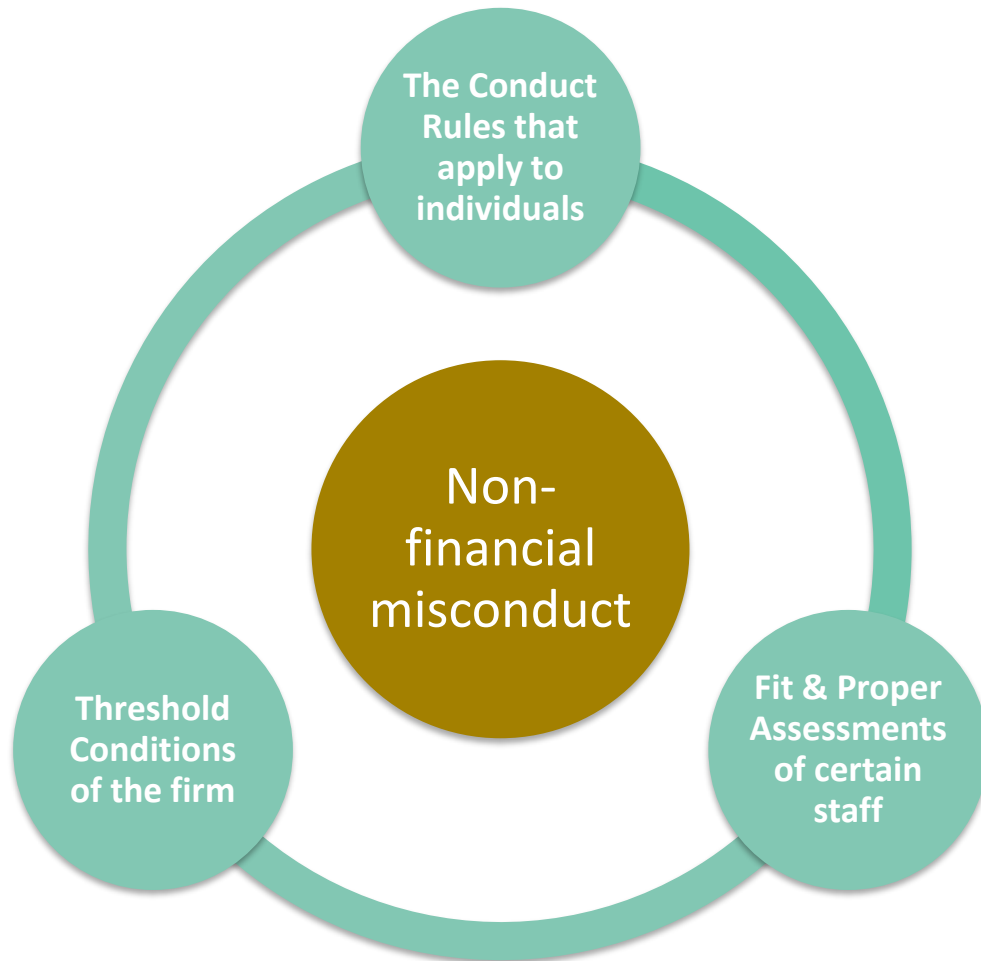


# Application of the proposals



**Proposals for all firms –  
Non-financial  
misconduct/data reporting**

# Non-financial misconduct



In our view, there is a risk to public confidence where individuals have committed serious non-financial misconduct, whether inside or outside the workplace, such as sexual or racially motivated offences, but are permitted to continue working within the sector.

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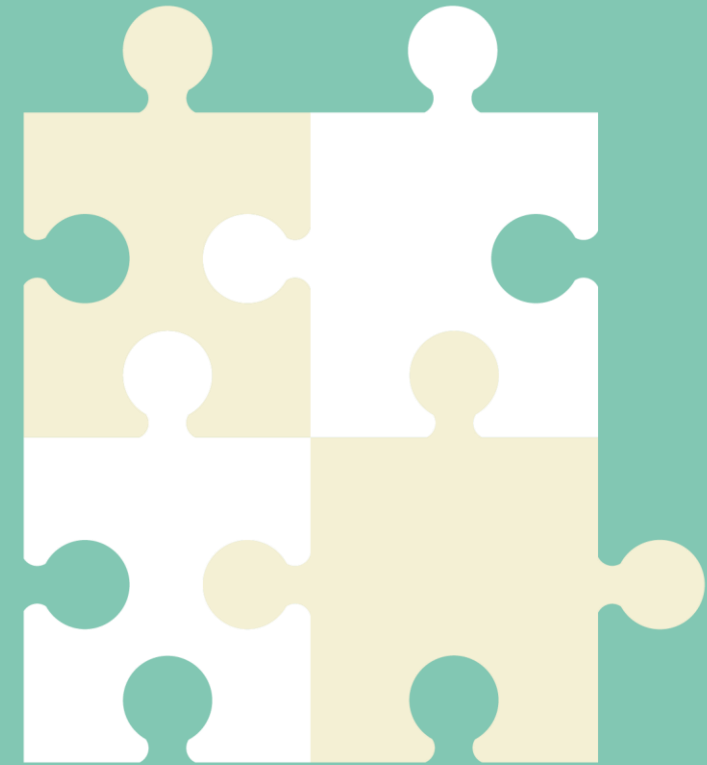
FCA CP23/20

# Individual Conduct Rules

- Non-financial misconduct **in private or personal life** does not amount to a breach of Code of Conduct rules
- What is private or personal life?
- Context matters:
  - The firm's premises
  - Involvement of any clients or similar
  - Use of work equipment or staff
  - The position of the staff member
  - Did it benefit the firm (misguided or not)?
- Broadly, applies to misconduct towards colleagues or other work-related contacts

# What does in private or personal life mean?

FCA's examples	Within COCON?
Misconduct in relation to a colleague while both are on their firm's premises	✓
Misconduct in relation to a colleague while working remotely	✓
Misconduct in relation to a family member while working remotely	✗
Misconduct in relation to a member of public while commuting to work	✗
Misconduct in relation to a colleague when both are travelling to a business meeting	✓
Misconduct in relation to a colleague at a work-organised social event	✓
Misconduct in relation to a colleague at a social event organised in a private capacity	✗
Misconduct in relation to a colleague at a client when representing the firm	✓



# Individual Conduct Rules

- What types of conduct is caught? Behaviour that:
  - has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for a person
  - is offensive, intimidating or violent to a person
  - is unreasonable and oppressive to a person
  - humiliates, degrades or injures a person
- Only **serious misconduct** is a breach of Conduct Rules
- What is serious? Indicators include duration, likelihood of damage to firm's working culture and gap in seniority
- Failing to take reasonable steps to **protect staff** against non-financial misconduct or failing to take seriously complaints of such behaviour may breach of the Conduct Rules

Subjective

Further FCA examples include **bullying, sexual misconduct** or **unwanted conduct** that has the purpose or effect of creating an intimidating, hostile, degrading, humiliating, or offensive environment

# Fitness & propriety / Regulatory references

## Fitness & propriety

- Events in private or personal life **may** be relevant for fitness & propriety assessment:
  - Non-financial misconduct may mean a person does not have the abilities to work in a role requiring assessment
  - The FCA believes bullying, sexual or racially motivated offences can harm objectives of maintaining confidence in the financial system whether inside or outside the workplace
- The parameters around this are not clear – the FCA gives as an example behaviour that is “disgraceful or morally reprehensible or otherwise sufficiently serious” in private life

## Regulatory references

- Firms may have to include information about non-financial misconduct in regulatory references
- This will impact employees when changing firms
- What does this mean in relation to HR records?

# Data reporting

1

Numbers

## What must be reported?

- the average number of employees over three-year period on an annual basis
- Firms with over 250 employees must report additional data to the FCA

3

Timing

## Reporting rules

- come into force 12 months from date of publication of the final rules
- 3-month window for making the report

2

Employees

## "Employees"

- based on the FCA definition which may also include contractors, secondees and non-executive directors
- excludes an individual who does not predominantly carry out activities from an establishment in the UK

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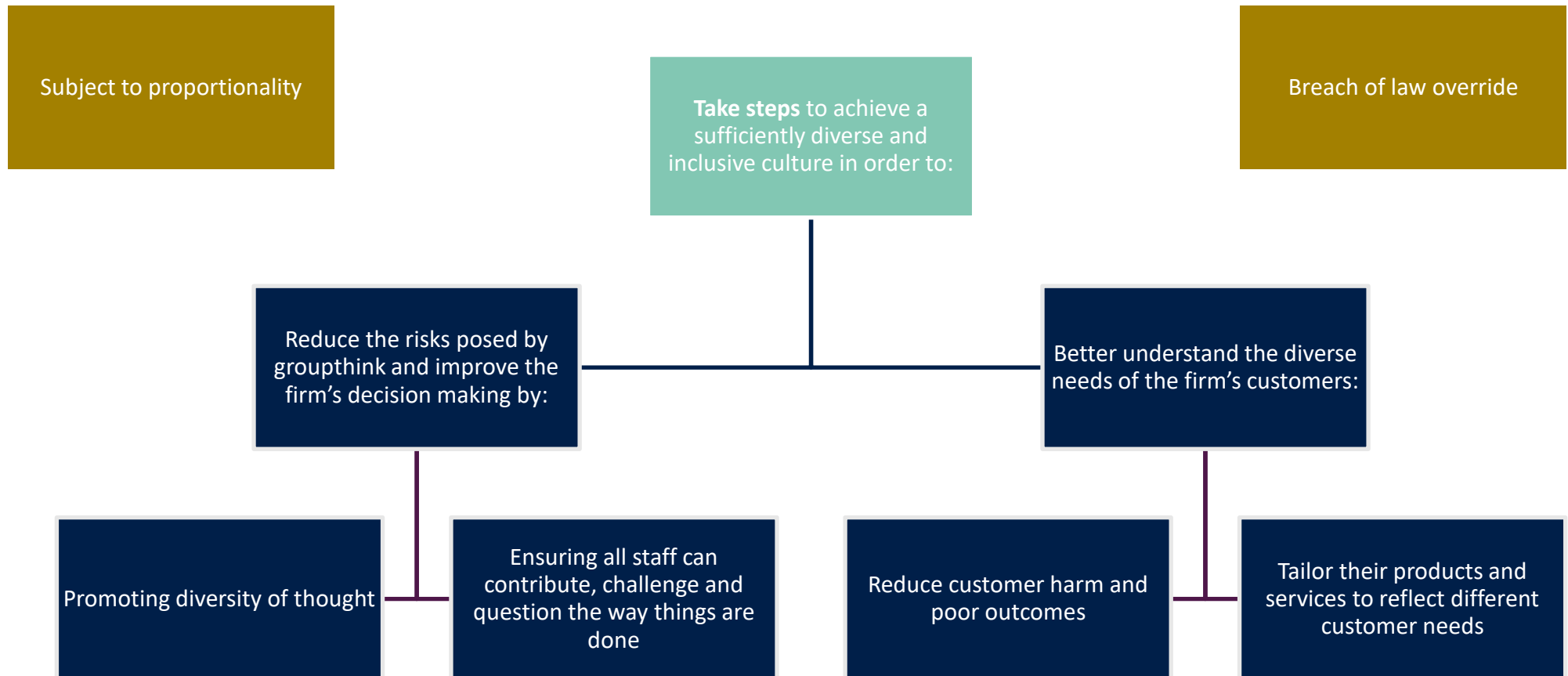
Scope

## Who must report?

- All firms with Part 4A permission with 250 or fewer employees (with the exception of Limited Scope SMCR firms)

# Proposals for firms with over 250 employees

# Firms with over 250 employees – Purpose of rules



# D&I Strategy

## Content

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- evidence-based strategy on current D&I levels in firm
- developed in accordance with the purpose of the FCA rules on D&I (please see slide 14)
- include clear objectives and goals and a plan for meeting and measuring these and any applicable targets (please see slide 16)
- address obstacles for achieving the objectives and goals and training for staff



Firms must  
establish a  
D&I  
strategy

## Publicly available

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- must be made easily available and free to obtain (e.g. on a website)

## Board responsibility

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- the management body of the firm has overall responsibility for the D&I strategy and must regularly review its quality and effectiveness

## Proportionality

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- subject to proportionality principle

# D&I Targets

- Firms must set appropriate targets to address underrepresentation of “demographic characteristics” within the firm
- The firm may decide itself which demographic characteristics the targets are set for – but must set out its rationale for its choice
- Stretching but realistic targets looking at:
  - available data on existing diversity profile of the firm
  - available data on the diversity profile of the UK population and of the geographical area in which the firm carries out the regulated activities
- Management body will be responsible for overseeing and monitoring the targets
- Optional to set inclusion targets

- The FCA expects the firm to set at least one target for each of the below groups of employees



# Public disclosures

Disclosure split by percentage of (i) management body and senior leadership; and (ii) all employees – split into pre-set categories

## Mandatory disclosure data items

- Age
- Sex or gender
- Disability or long-term health conditions
- Ethnicity
- Religion
- Sexual orientation

Employees will be entitled to state that they prefer not to say/have not responded – percentages of such statements also to be disclosed

## Voluntary disclosure data items

- Gender identity
- Socio-economic background
- Parental responsibilities for children under 18
- Carer responsibilities

Disclosure split by percentage of (i) management body and senior leadership; and (ii) all employees - (on a 5 point scale from strongly agree – strongly disagree)

## Culture & Inclusion data items – how safe employees feel about:

- Speaking up when inappropriate behaviour
- Challenging dominant opinions or decisions
- Valued contributions
- Actions or remarks based on personal characteristics
- Safe to admit an honest mistake
- Inclusive environment

# Risk and governance

- Matters relating to diversity and inclusion are to be considered as a non-financial risk
- Should be considered as a part of operational and internal audits
- Firms to keep risk register and ensure adequate assessment
- Effect on calculation of regulatory capital requirements?