



Association of Mortgage Intermediaries' response to FCA DP21/2 Diversity and inclusion in the financial sector – working together to drive change

This response is submitted on behalf of the Association of Mortgage Intermediaries (AMI) and the Association of Finance Brokers (AFB). AMI is the trade association representing over 80% of UK mortgage intermediaries. AFB sits within AMI and represents second charge (formerly secured loan) brokers.

Intermediaries active in this market act on behalf of the consumer in selecting an appropriate lender and product to meet the individual consumer's mortgage requirements. AMI members also provide access to associated protection products. AFB members also provide access to unsecured products.

Our members are authorised and regulated by the Financial Conduct Authority (FCA) to carry out mortgage, insurance mediation and consumer credit activities. Firms range from sole traders through to national firms and networks, with thousands of advisers.

Response

We welcome the chance to comment on this important topic. Diversity and inclusion are important to the whole of the financial sector and it is vital that financial services firms remain relevant and that the customers of the future are able to see themselves reflected in firms. We do not believe that anyone should feel that they are not able to be their authentic selves at work, nor should anybody feel that they are penalised for who they are.

As AMI represents solo-regulated firms, this response is tailored towards the changes and measures that we would like to see from the Financial Conduct Authority.

We recognise that there is a clear need to increase the diversity of both the financial services sector as a whole, and specifically the mortgage sector. We note that there has been an increasing number of initiatives by organisations that have looked to improve both diversity and inclusion in various sectors as well as specific initiatives within firms. Such initiatives have had some success in moving the landscape forward, however progress in some areas is still embryonic and there is much more to be done.

We question whether the regulator has the expertise to undertake this specialist and emotive work, particularly when it admits that it still has work to do on diversity and inclusion itself. Should it look to enforce potentially costly and data heavy requirements on firms or should the FCA instead look to encourage the work already taking place and provide support, guidance and examples of best practice to help firms make their own internal changes.

Whilst we agree that targets are proven to work and to stimulate change, we believe that firms could themselves be responsible for this. Any data collected by the regulator from individuals or firms must

have a purpose and be proportionate based upon the outcome being sought. We do not believe that the need for the regulator to harvest data from firms on the diversity of its staff has been explained or justified and we have concerns regarding the requirement for firms to share personal and in some cases special category data with the regulator, even on an aggregated basis.

We would be like to see the evidence behind the data collection proposals and clarification of the expected outcome that will result from the publication of this data. We are aware that this is a mechanism that has been used before in industry to reduce the gender pay gap. We would be interested in the assessment of the effectiveness of this initiative and whether any success can be directly attributed to the publication of data or whether other initiatives may have had more effect.

We welcome the discussion paper's recognition of the need for proportionality concerning the suggested measures. Whilst we recognise that the need to increase the levels of diversity and embrace a culture of inclusion across all financial services firms, there are some steps outlined in this discussion paper that will be beyond the means of small firms and we believe that it will be the large firms that need to take the lead. It is our opinion that many of the strategies included in this discussion paper would only be appropriate for enhanced firms. Large firms have an important role to play in modelling good behaviour, condemning poor behaviour, encouraging change in their distribution chains and increasing the diversity of their own firms which will in turn, help to increase the diversity of whole sectors.

We are disappointed that the regulators have issued a discussion paper with such pointed questions and pre-defined solutions. It is our opinion that the regulators, and particularly the FCA, should be thinking more broadly about the ways in which they might be able to assist industry to achieve the required outcomes through thought leadership and by promoting discussion with firms and diverse leaders of firms, including those from underrepresented groups. As previously stated, there are a number of different initiatives being undertaken in different sectors, with some further along the journey than others. The regulator has an important role to play in disseminating the learning throughout the industry, promoting good practice and including examples of bad practice and its consequences as was the case with the recent vulnerability guidance.

We are concerned that the measures outlined as options in this discussion paper do not address the need to educate people on the benefits of diversity of thought and inclusive cultures. Instead they feed the need to tick a box and rather than encourage to foster an inclusive culture which should be a priority. The concept of setting targets is notoriously divisive and risks heightening emotions and accentuating feelings of people being marginalised, or having their opportunities removed for the benefit of others. It is imperative that firms' recruitment processes are meritocratic, but firms must to consider how to attract a diverse array of applicants for roles which, for many firms, will involve changing previous recruitment processes.

We would like the regulator to think more widely about how it can work to improve diversity and inclusion, for itself, for the firms that it regulates and for the consumers who rely on the financial services industry. We believe the regulator should apply a D&I lens throughout its work to consider areas within its control, for example supervision and through the implementation of artificial intelligence to ensure that it is free from unconscious bias.

AMI has recently undertaken a piece of research, with the support of two lender firms, into people's perceptions and lived experiences of working in the mortgage sector¹. The results will be published later in October but show that only 43% of total respondents agree that the mortgage sector attracts a

¹ The AMI Viewpoint report on Diversity, Inclusion and Equity in the Mortgage Industry is expected to be published in mid-October 2021.

workforce representative of the whole community, 38% agree that diversity and inclusion are taken very seriously across the mortgage industry and 39% of respondents feel that leadership is held accountable for diversity, inclusion and equity across the mortgage industry. AMI intends to work with its member firms and the lender community, to share thoughts, knowledge and best practice to improve these figures. The survey has highlighted many remedies, both immediate and more structural that will progress the agenda. We will also be calling for the industry to self-regulate, to call out bad behaviour and discrimination and make it known that such behaviour will not be tolerated.

AMI's survey also reported the need for clear reporting channels for discriminatory and bad behaviour. This is an area which we believe would benefit from collaboration between firms and the conduct regulator.

Overview, including context and desired outcomes

Q1: 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?

We are not experts in this area but are happy with the terms as defined. We trust that the FCA has sought advice and can support the definitions with adequate input from subject matter experts.

The role of the regulator

Q2: 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?

The language used in the handbook is a something that can evolve and change during the fullness of time. It is the outcome of requirements which make the difference and the term that may be perceived as non-inclusive such as 'chinese walls' is far less important than the overall objective of taking steps to change behaviours, thinking and culture.

We are disappointed that in this discussion paper the regulator has focussed heavily on specific remedies – namely data and data collection – and has neglected to ask open ended questions on areas in which firms believe that the regulator may be able to help progress the D&I agenda and make a difference. The regulator's push to become a data-led regulator is detrimental in this regard and we suspect has led to this blinkered approach. This paper is a discussion paper by name, but is so focussed on areas that the regulator has pre-defined, we do not feel that it adequately fulfils the role of a discussion paper.

It is our opinion that the regulator should be thinking much more broadly about the ways in which it might be able to assist industry to achieve change, through thought leadership and by promoting discussion with firms and diverse leaders, including those from underrepresented groups, of organisations. There are a number of different initiatives being undertaken in different sectors, with some further along the journey than others, and the regulator could play an important role in disseminating the learning throughout the industry, promoting good practice and including examples of bad practice and the consequences as it did so well in the recent vulnerability guidance.

We would like the regulator to think more widely about how it can work to improve diversity and inclusion for itself, for the firms that it regulates and for the consumers who rely on the financial services industry. It's imperative that the regulator applies a D&I lens throughout its work to consider areas within its control, for example supervision and through the implementation of AI to ensure that it is free from unconscious bias. We believe that the regulator should work with the industry to understand whether there are any rules or regulations (or the perceptions of these) that have a greater effect on underrepresented groups. The median accumulation of wealth through home ownership by a Black

family over the past decade in Great Britain is zero and only about 30% of Black families are home owners². Is regulation unintentionally increasing this disparity and is there anything the industry can do through education or promotion to reduce it?

Measuring progress

Q3: Do you agree that collecting and monitoring of diversity and inclusion data will help drive improvements in diversity and inclusion in the sector? What particular benefits or drawbacks do you see?

We agree that the collecting and monitoring of diversity and inclusion data could help to drive improvements in the sector. Whilst in principle we are not opposed to this proposal, we note that as part of this consultation the regulator has given no indication as to why it would require this data or how it would intend to use it to improve the diversity and inclusion of the sector. To simply collect the data and then not use it adequately for the improvement of the sector could be seen as tokenistic on the part of the regulator and could discourage firms from embedding inclusion at the heart of their cultures, simply feeling that they need to fulfil the stated requirement. Such a policy has the potential to increase any resentment against D&I initiatives within firms and will do nothing to help promote a culture of inclusion.

The challenge with data collection is twofold. Firstly, data collection is only as good as the recipients' permission to share information. As this will be voluntary, the data could be skewed if individuals decline to provide it, giving false results. Secondly, the data will focus on the final outcome, not the diversity of the process sitting behind which supports inclusivity.

Data is only ever a snapshot in time. It does not show how a result has been achieved. By focusing heavily on data led results, this could lead to a tick box approach being adopted within firms. This could have a detrimental impact on the outcome being achieved. Whilst the Women in Finance programme and others have had some success, it must be noted that some firms have increased the numbers of women on Boards purely by bringing in female Non-Executive Directors into board positions and into operational roles (for example marketing and human resources) rather than embedding the changes fully into their cultures. If diversity and inclusivity data monitoring is to be considered, the inputs should also be a consideration, not ignored in favour of the end result.

The regulator must ensure that multiple data sets are not being requested for different purposes. The FCA will need to be joined up across departments and initiatives to avoid duplicate reporting of similar/same data with consideration of the amount of time and cost implications that these requirements put on firms. If this data is requested on a regular basis, the regulator must clarify the purpose, how it will be used and future steps to initiate change.

The current proposals for the new consumer duty would require firms to monitor outcomes for different group of customers especially those sharing protected characteristics (as defined by the Equality Act 2010) to highlight areas where they may be disadvantaged and experience different outcomes from a firm's products and services to other customers. Whilst we fully support the objective, we are concerned that this may be a complicated endeavour for firms and do not believe that firms should be required to collect information on a customer's sexuality, disability, ethnicity etc when they take out a new product? The vulnerability guidance suggests that firms concentrate on a customer's individual needs rather than their characteristics as it recognises that there are very strict controls around special category data.

² [How London's property boom left Black Britons with nothing](#). May 2021. Based on data produced for Bloomberg by the Office of National Statistics

AMI would question the need to collect and store details such as the sexuality of customers who apply for a mortgage. This would be challenging to firms and could be uncomfortable for consumers.

As mentioned in the discussion paper, proportionality in any such initiative will be vital as merely aggregating data will not be sufficient means for firms to maintain individual's anonymity. As such, the introduction of the collection of diversity data would need to apply solely to large/enhanced firms.

Q4: Do you have a view on whether we should collect data across the protected characteristics and socio-economic background, or a sub-set?

As mentioned above, the data is only as good as the source of input and the willingness of individuals to voluntarily share the information. Caution must therefore be applied as to how this data will be used to influence views and change, as the information may not provide a comprehensive picture as firms will be reliant upon participants to share.

Any data collected must also have a purpose and be proportionate based upon the outcome being sought.

Q5: 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?

Due to the sheer magnitude of changes that have been implemented by the FCA within the last year, we do not believe that the regulator will be able to prove whether any changes leading to better decision making in firms and the development of products and services that better meet customers' needs are due to increased diversity and inclusion in firms. Firms have seen a large number of initiatives from the regulator that they have had to incorporate including the senior manager and certification regime, new vulnerability guidance, changes to general insurance policy practices, a potential new consumer duty and a programme of work for principal firms with appointed representative firms. Whilst the regulator might be able to canvas opinion on whether the changes have made a difference and look for improvements in data, the data will not show from which initiative any positive (or negative) changes have emanated.

[Driving and supporting change](#)

Q6: What are your views on our suggestions to approach scope and proportionality?

We agree with the regulators' proposals for the scope of any new policy. Diversity and inclusion are important to the whole of the financial sector and it is vital that financial services firms remain relevant and that the customers of the future are able to see themselves reflected in firms. We do not believe that anyone should feel that they are not able to be their authentic selves at work, nor should anybody feel that they are penalised for who they are.

We agree with the statement in the consultation that proportionality is key. This should recognise not only the size of firms but also regional difference across the UK. Whilst 50 per cent of the population of London is non-White and firms based there will have a large pool of diverse talent to choose from, firms who are not based in large cities in the UK will be in a different situation.

We would welcome the use of guidance and best practice examples from the regulator to ensure that all financial services firms make any necessary changes to their culture and embed a culture of inclusion but feel that the main body of changes suggested in this consultation should only be mandatory for enhanced firms with proportionate requirements where appropriate for core firms. We welcome the

regulators' stated aim to avoid imposing rules that would not be effective or appropriate for smaller firms.

Q7: What factors should regulators take into account when assessing how to develop a proportionate approach?

In addition to our answer to question 6, it is worth noting that different measures will require different approaches with regards proportionality. Whilst we are of the opinion that data reporting should only be required from enhanced firms due to challenges over the anonymisation for small and medium sized firms, any change to conduct rules and fitness and propriety requirements would apply to all, even the smallest of firms.

Q8: Are there specific considerations that regulators should take into account for specific categories of firms?

If responsibility for D&I is placed with senior management functions in firms, then the regulator must consider whether and how this will map across to the appointed representatives' regime.

Q9: What are your views on the best approach to achieve diversity at Board level?

Whilst we understand that the idea of targets is divisive, they are proven to work and to accelerate change. We agree with the consultation's assertion that senior managers will have a key role to play and that diversity and inclusion should be a concern for leaders of all levels.

Board diversity is a long-term goal which must be driven by meritocracy. Whilst individuals should not be appointed solely to improve the diversity of the Board, firms should be encouraged to look to increase the diversity of applicants for each role and ensure that the shortlist for interview includes a diverse range of applicants and the recruitment panel should be carefully selected to ensure diversity and reduce groupthink. A truly meritocratic recruitment process will, in time, naturally lead to higher levels of diversity.

Q10: What are your views on mandating areas of responsibility for diversity and inclusion at Board level?

We believe that diversity and inclusion must be a priority for Boards, that's the only way that real change will happen. As the discussion paper rightly states, this will require deep cultural change in some firms – others are ahead on the journey and in the process of creating a truly inclusive working environment.

We would however caution the regulator on its involvement in this area. The regulator certainly has a role to play in sharing good practice and guidance and we would hope that all firms will feel a moral obligation to work towards a diverse and inclusive culture, not just because it makes good business sense but because it is the right thing to do. However, setting specific parameters for Board appointments should be beyond the regulators control and should remain a commercial decision for firms.

Q11: What are your views on the options explored regarding Senior Manager accountability for diversity and inclusion?

We agree that making senior leaders directly accountable for diversity and inclusion in their firms would drive strategic thinking and relevant discussions. The culture of a firm is so important and this is driven by the senior management team. Our recent survey into D&I in mortgage sector firms revealed that currently just 38% of people feel that diversity and inclusion are taken very seriously across the

mortgage industry and 39% believe that leadership is held accountable for achieving diversity, inclusion and equity across the mortgage industry.

Express allocation of responsibility of elements of diversity and inclusion policy to senior managers could help to drive this change.

Q12: 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?

Whilst this is not an area that we have direct experience of, we agree with linking remuneration to diversity and inclusion metrics as part of non-financial performance assessment could be a useful tool in driving the accountability for D&I in firms and for incentivising progress. We would not support prescriptive policies from the regulator as remuneration should remain a commercial decision but agree that the industry could benefit from the provision of insight and good practice at both individual and firm level.

Q13: What are your views about whether all firms should have and publish a diversity and inclusion policy?

We are supportive of the suggestion that all firms should have a diversity and inclusion policy and that this should be published on their website and agree with the regulators' recognition that smaller firms should have proportionally simpler policies. However, without buy in from a firm's management this measure could be seen as another box to tick and may not drive the change that the regulator is hoping to see.

To truly make a difference, a D&I policy needs to be embedded across all elements of a firm and the management needs to take ownership and ensure that the terms of the policy are adhered to by all. Our recent survey has highlighted a reluctance in the industry to report discriminatory behaviour and the victims are concerned that they will be victimised or that such reporting will not make a difference. Whilst all firms will have grievance reporting procedures, there may be some benefit in a centralised reporting process for cases in which no satisfactory outcome has been reached.

Q14: Which elements of these types of policy, if any, should be mandatory?

We do not believe that it should be necessary to mandate any elements of the policy, however good practice examples, related to a variety of firm sizes might be helpful for firms who are beginning to embark on the journey.

Q15: What are your views about the effectiveness and practicability of targets for employees who are not members of the Board?

We do not agree with the proposals to set a definition of 'senior management' across firms to support the monitoring of diversity and benchmarking between peers. A firm's management structure is a commercial decision and as such it should be up to firms to make the assessment, rather than using a definition provided solely to ensure that the regulator is able to monitor progression. As stated earlier in our response, the amount of ethnic diversity within a firm may be partly dependent on the location of the firm and comparing a London based firm with a more rural firm would not currently be appropriate.

Whilst we agree with the assertion that firms need to improve diversity at all levels of the organisation and think about progression within their firms, we do not believe that it is the regulator's place to mandate targets for firms, be that in relation to customer facing roles, certified staff or staff as a whole. Firms are making progress in this area themselves and there are a number of different initiatives in the

industry. Firms would benefit from thought leadership, guidance and examples of good recruitment practice from the regulator rather than specific targets.

We agree that targets can complement internal monitoring of D&I and send a message about where firms are trying to get to but it would be appropriate for these targets to be set by firms themselves. We also agree with the assertion that firms should aim to reduce the demographic diversity between that of the firms compared to its customers or the market it operates in.

Q16: 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?

See Q15.

Q17: What kinds of training do you think would be effective in promoting diverse workforces and inclusive cultures?

Others are far better placed to answer this than us. Training could help but is not the panacea and we understand that whilst training on unconscious bias is popular with firms, that there is little proof that it is effective.

It would be sensible to understand the causes of the issues before suggesting any training would be helpful as a remedy and as it is likely that different sectors are at different stages of work in this area themselves. The one size fits all approach to this seems unhelpful.

Q18: What kinds of training do you think would be effective for helping understanding of the diverse needs of customers?

This is not our area of expertise, others will be better placed to answer this question.

Q19: What are your views about developing expectations on product governance that specifically take into account consumers' protected characteristics, or other diversity characteristics?

Whilst we fully support the objective, we are concerned that this may be a complicated endeavour for firms and do not believe that firms should be required to collect information on a customer's sexuality, disability, ethnicity etc when they take out a new product? The vulnerability guidance suggests that firms concentrate on a customer's individual needs rather than their characteristics as it recognises that there are very strict controls around special category data. AMI would question the need to collect and store details such as the sexuality of customers who apply for a mortgage. This would be challenging to firms and could be uncomfortable for consumers.

Q20: 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?

We believe that if firms are required to provide data on D&I to the regulator then it is right that the regulator should provide the data to the wider industry in an aggregated form so that firms may also benefit from the data collection. We remain concerned however that the cost to firms of collecting, safe guarding and providing the data to the regulator will be greater than any benefit that can be gained through the analysis of this data. Particularly as we are aware that many larger firms already collect and interrogate a certain amount of employee data in order to monitor their own D&I progression.

In our opinion the regulator should only look to collect D&I data from firms if it is necessary and proportionate for defined purposes of oversight. The information must be needed in order to address specific measures and not asked for as a “nice to have”.

As with all data, this must be safely used and protected. There must be a demonstrated lawful basis to for requesting and processing any data collated.

Q21: How should our approach for information disclosure be adapted so that we can place a proportionate burden on firms?

We do not believe that the collection of D&I data is appropriate for small firms and call on the regulator to reserve any such policies for enhanced firms. If the regulator is of the opinion that great benefit can be derived from the collection of such data from small firms, then we would welcome further explanation of this.

Q22: What should we expect firms to disclose and what should we disclose ourselves from the data that we collect?

As stated above, data should only be collected if FCA has a proven need for it as any data collection will present an additional cost to firms and more risk to individuals with the storage of this data which in some cases will be special category data.

Q23: What are your views on how we should achieve effective auditing of diversity and inclusion?

The majority of our member firms are too small to be included in any of the regulator’s measures that will apply solely to enhanced firms and will need to apply many of the end measures proportionately. Since the FCA’s move to portfolio management, these firms do not have a supervisor to assess their approach and so they they will need to review and audit the effectiveness of any diversity and inclusion programme or work that they undertake themselves. There are many ways that a firm might be able to do this including undertaking exit interviews, a review of complaints and grievances and regular employee surveys.

Q24: How can internal audit best assist firms to measure and monitor diversity and inclusion?

No comment.

Q25: Do you agree that non-financial misconduct should be embedded into fitness and propriety assessments to support an inclusive culture across the sector?

We agree that it would be helpful for the regulator to develop guidance as to what constitutes ‘non-financial misconduct’ including sexual harassment, bullying and discrimination on the basis of someone’s protected characteristics. Guidance on how such behaviour, or failure to take reasonable steps to address such behaviour, could result in a breach of the conduct rules would also be useful.

Our research indicates that there are still some issues within the mortgage sector with overt discrimination, sexual harassment and inappropriate behaviour. We will be working as a sector to stamp this out quickly and make clear that this is not acceptable. Guidance from the regulator making clear that such behaviour is non-financial misconduct and should be considered as part of fitness and propriety assessments would be a useful tool for firms and the industry to ensure that such behaviour is eradicated.

Q26: 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?

We do not agree that the regulator should ask for diversity data as part of Senior Management Function applications and be able to use it as grounds for withholding approval. This should remain a commercial decision for firms and whilst firms should be encouraged to consider the diversity of their senior management, the recruitment process needs to be meritocratic and the end decision should lie with the firm. Any move for the regulator to force recruitment of people from underrepresented groups could in itself be discriminatory.

The authorisations process is currently extremely slow, causing detriment to both firms and individual's livelihoods. The regulator should not be considering further complicating the process. Other measures should ensure that firms themselves consider whether the applicant is the correct fit for their firm and will help them ensure an inclusive culture.

Q27: What are your views on providing guidance on how diversity and inclusion relates to the Threshold Conditions?

We would be supportive of the FCA providing additional guidance relating to threshold conditions. However, we remain of the opinion that whilst firms should be encouraged to think about the diversity of their Boards, the selection and recruitment process is a commercial decision and diversity is one of many factors that should be taken into account.

Q28: 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?

Very few of our member firms benefit from having a supervisor with whom to discuss such matters. We welcome the FCA's commitment to share insights and work with industry and other stakeholders to drive change.

The FCA should be mindful that it will not be possible to gauge whether a firm has an inclusive culture through the monitoring of data.

Q29: 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?

We agree with the assertion that firms with a diverse workforce and an inclusive culture will be beneficial for the outcomes of consumers, however we do not believe that the impact will be tangible. Not in small part due to the sheer number of the variables that the regulator has recently changed or is in the process of changing, including but not limited to: the move to more individual accountability through implementation of SM&CR; new guidance for vulnerable customers; and the potential new consumer duty, as it will not be possible to gauge which policy is responsible for the improvement.