

New Year's Resolutions: FCA warns insurance firms to tackle non-financial misconduct

Article By:

Garon Anthony

On 6 January 2020, the FCA published a letter addressed to the CEOs of general insurance firms. This letter sets out the FCA's expectations for firms to be proactive in tackling non-financial misconduct in the sector and envisions that the Senior Managers and Certification Regime ("**SM&CR**") will provide "...an opportunity and catalyst to transform the culture in financial services".

Motivation and Focus

Non-financial misconduct is broadly defined by the FCA to include sexual misconduct, sexual harassment, other forms of harassment, bullying, discrimination, favouritism, exclusion and intimidation.

The FCA's focus on non-financial misconduct is two-fold:

- Firstly, on individual perpetrators – for example, substantiated allegations of non-financial misconduct may result in an individual being found to have breached one or more of the FCA's Conduct Rules.
- Secondly, in relation to a firm's response to instances of non-financial misconduct – for example, a firm's handling of allegations of sexual misconduct is relevant to the FCA's assessment of that firm in the same way that their handling of insider dealing and market manipulation, etc is.

The FCA's letter builds on the PRA's November 2019 letter to CEOs of GI firms, which identified aspects of corporate culture and individual behaviour as a priority area of focus in 2020. The FCA has focused on four key drivers of culture that it believes can lead to improved cultures and reduce the potential for harm: leadership; purpose; approach to rewarding and managing people; and governance, systems and controls.

Leadership

Jonathan Davidson, Executive Director of Supervision, Retail and Authorisations at the FCA, states in the letter that "[n]on-financial misconduct can only be effectively addressed if there is appropriate leadership" within firms. As part of the FCA's approval of senior managers, an assessment of fitness

and propriety is undertaken. Mr Davidson warns that a senior manager's failure to show a proactive approach to poor culture may result in the manager failing to pass the "fit and proper" conduct requirements of the SM&CR.

Future enforcement action?

The FCA's focus on non-financial misconduct has previously been limited to statements made through policy publications and speeches, rather than by taking any enforcement action. However, this may change as at the end of 2019, the FCA had seven open enforcement investigations into allegations of non-financial misconduct.

Next steps

Firms are expected to identify shortcomings between the FCA's expectations and firms' current arrangements, and act promptly to address them. The FCA will also be undertaking further supervisory work to improve standards of behaviour and to hold firms and senior managers to account. To support firms, the FCA will host a webinar during 2020 focused on firms' assessment of culture and will hold a conference in March 2020 to share the insights gained and discuss the way forward. It will also arrange a CultureSprint in Q2 in 2020 looking at psychological safety within firms.

Comment

The FCA has highlighted a clear expectation that firms and senior managers will embed healthy cultures by identifying and modifying key drivers of that culture. Mr Davidson cautioned that, "[p]oor culture in financial services can lead directly to harm to consumers, market participants, employees and markets." It is therefore unsurprising that the FCA has placed tackling non-financial misconduct high on its agenda for 2020.

© Copyright 2025 Squire Patton Boggs (US) LLP

National Law Review, Volume X, Number 14

Source URL: <https://natlawreview.com/article/new-year-s-resolutions-fca-warns-insurance-firms-to-tackle-non-financial-misconduct>