

Financial Services and Employment Resources: Non-financial Misconduct – What Is it and Why Do You Need To Know? (UK)

25 June 2024

There is a direct interplay between the regulation of individuals in the financial services industry and the implications of this for their employment, their Financial Conduct Authority (FCA)-regulated employers and the employment of senior individuals within those organisations. Our team of experts regularly advises on the interaction between employment law and regulatory rules, particularly “fitness and propriety” and the FCA’s conduct rules, and the employment issues that flow from regulatory investigations.

Over recent years, the FCA has increasingly expressed interest in the culture of the firms that it regulates. More recently, the FCA has expressed the view that poor diversity and inclusion (D&I) within a firm’s workforce, and a culture in which “non-financial misconduct” (NFM) goes unchecked, can affect the safety and soundness of a firm and, ultimately, the sector as a whole.

In September 2023, the FCA published a consultation paper with the aim of driving change by linking D&I to a firm’s overall strategy, ensuring that strategy is embedded in the firm’s day-to-day operations and culture, requiring firms to gather D&I data to inform improvement, and developing an understanding of “what good looks like” across the sector. In that consultation paper, the FCA also referred to the way that NFM can have a negative effect on a firm’s culture by inhibiting individuals from speaking up. It proposed to clarify when and how NFM occurring within and outside the workplace might:

- Breach the conduct rules
- Be a factor indicating that an individual lacked fitness and propriety to perform a regulated role
- Need to be disclosed on a regulatory reference
- Indicate that the firm itself did not meet the suitability threshold condition to perform regulated activities

In our series of short videos and blogs aimed at those serving in HR and compliance at FCA-regulated businesses, we take a closer look at NFM, considering the following topics:

- [Non-financial Misconduct – What’s New?](#)
- Non-financial Misconduct – Will it Change Anything?
- What Is the Definition of Non-financial Misconduct?
- How Should Firms Investigate Non-financial misconduct and What Is the Appropriate Sanction?
- When Should Firms Tell the FCA About Non-financial Misconduct?

Other Useful Resources

In order to support our financial services clients, we regularly produce useful materials. A selection of these can be found below:

- **June 2024** – Publication: [New Duty on Employers to Prevent Sexual Harassment at Work in the UK](#)
- **May 2024** – Webinar: [Sexual Harassment in the Workplace – A Global Perspective](#)
- **March 2024** – Webinar: [Unpacking the FCA Non-financial Misconduct Survey](#)
- **March 2024** – Webinar: [Diversity and Inclusion in the Financial Sector Roadmap](#)
- **February 2024** – Publication: [Good Workplace Culture? The Law Is Changing: Our Diversity, Equity and Inclusion \(DEI\) Training Solutions](#)