



**CITY OF LONDON LAW SOCIETY RESPONSE TO FCA CP 21/24: DIVERSITY AND INCLUSION
ON COMPANY BOARDS AND EXECUTIVE COMMITTEES**

20 OCTOBER 2021

Introduction

This response has been prepared by a working party of the Company Law Committee of the City of London Law Society (the "**CLLS**"). The CLLS represents approximately 17,000 City lawyers through individual and corporate membership, including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multijurisdictional legal issues. The CLLS responds to a variety of consultations on issues of importance to its members through its 19 specialist committees. The working party is made up of senior and specialist corporate lawyers from the CLLS who have a particular focus on issues relating to corporate governance.

The Committee is supportive of the FCA's efforts to promote diversity of gender and ethnicity and inclusivity at board and executive management level and welcomes the FCA's continued focus on diversity and inclusion to achieve meaningful change. The Committee believes that increased transparency in relation to diversity and inclusion can in the longer-term lead to improved corporate governance which in turn can lead to improved corporate performance. The Committee sees narrative reporting as one means to achieve greater transparency and to promote progress in this area. In this context, the Committee would note the progress made as a result of a range of targeted initiatives, including the Hampton Alexander Review and the Parker Review. However, the Committee believes that diversity and inclusion is a complex area with many different aspects that can have very personal implications, as further set out below. It therefore has to be treated in a measured and sensitive manner. Consideration also needs to be given to the interaction between the proposals set out in the Consultation Paper and existing legislation with which the proposals overlap, including the Companies Act 2006 (the "**Companies Act**"), the Data Protection Act, the UK GDPR, the Equality Act and the Gender Recognition Act within the UK, and similar and often more stringent regimes in other relevant jurisdictions. To this end, the Committee has reservations over the proposed requirement to provide detailed numerical breakdowns of diversity statistics, often by reference to relatively small sample groups. The Committee is of the view that a "comply or explain" approach is more appropriate generally in relation to issues of this nature than a more prescriptive approach, especially when the push towards increased diversity in the boardroom remains at a critical inflection point given the increased efforts being made in this regard by the vast majority of listed companies. Further, if the challenges we highlight below are not addressed, there is a concern that the proposed requirements will lead to companies being unable to collect accurate and truly representative data, feeling obliged to add material caveats as to the reliance that should be placed on the data that has been collected and/or erring on the side of "explain" rather than "comply". These outcomes would mean that the information being made available to investors is at best imperfect and more likely insufficiently reliable or comparable as between companies such as to fail to achieve the very goals that the FCA is seeking to achieve with this proposed initiative.

Gender identity

The Committee notes that the proposals in the Consultation Paper are predicated on members of the board or senior management self-classifying in terms of gender and ethnicity. In particular, in relation to gender, the Committee notes the following:

- When reckoning the proposed targets set out in paragraphs 1.14 and 4.4 of the Consultation Paper and when presenting the proposed numerical data described in paragraphs 1.17 and 4.6 of the Consultation Paper, the number of women would include individuals who self-identify as women (and would presumably exclude individuals who self-identify as men); and
- The prescribed formats in proposed LR 9 Annex 2 and LR 14 Annex 1 for reporting numerical data on boardroom and executive management gender breakdown (which the Consultation Paper

proposes would be mandatory) contemplate that individuals may self-identify as non-binary or may decline to provide a response.

The Committee would note that, for many people, a decision to declare publicly a gender identity that differs from their biological sex (as perceived by others), or to declare one's gender identity as non-binary, is deeply personal and may be informed by many factors, including (but not limited to) cultural and societal norms and the potential impact of such a declaration on the individual's relationships with friends and family and work colleagues. For many individuals who choose to declare their gender identity publicly, this is a decision that is taken after much deliberation and soul-searching. Other individuals may, for personal reasons, choose to refrain from making any declaration at all.

In this respect, the Committee raises a general concern that, if not framed carefully, a new mandatory reporting regime may inadvertently lead to members of boards and executive management being required to decide whether to declare their gender identity publicly before they are ready to do so. An individual in this position who does not wish to declare publicly a gender identity different from their perceived biological sex will effectively be faced with two options: to decline to respond (as contemplated by the proposed numerical data tables) or to declare the gender that aligns with their perceived biological sex (whether or not that aligns with their gender identity).

Apart from the personal discomfort this may cause the individual in question, which is a substantial factor in its own right, this scenario creates two further potential issues:

- The overall accuracy of data may be compromised. If individuals feel forced not to reveal their true gender identity (whether by providing inaccurate responses or by declining to respond), it becomes more difficult to gauge the extent to which listed companies are successfully promoting gender diversity and inclusion within their boards and executive management and are meeting the proposed targets set out in the Consultation Paper; and
- Inferences may be drawn where an individual declines to respond. In theory, where an individual declines to state their gender, this should be considered a "null response". However, in practice, a person reading an issuer's annual report may infer from a decision not to respond that an individual does not self-identify as their perceived biological sex.

We recognise that, in practice, this issue exists already in other scenarios, such as when companies report their gender pay-gap ratios. However, in that circumstance, there is an argument that the size of the sample set (which will generally comprise at least 250 individuals) means that the anonymity of respondents is, in general, preserved and any inaccuracies are, broadly speaking, smoothed out.

However, the sample sets proposed by the Consultation Paper are much smaller. The average size of a UK Main Market company board has been cited (in recent years and by various reports) at around 10. The size of "executive management" depends on how this phrase is defined (please see our response to question 6 below) but may also be relatively small. This, combined with the fact that the individuals serving on a listed company's board will be readily identifiable, means that inferences as to individuals' gender self-identification can more readily be drawn or, at least, inferred.

This issue is exacerbated in relation to the proposal to report separately on a company's chief executive officer ("**CEO**"), chief financial officer ("**CFO**"), senior independent director ("**SID**") and chair, where the sample set will at most be four and may, where a company combines some of these roles (for example, the CEO and chair) be even fewer.

As noted above, the fact that someone may not wish to make a declaration which reflects that they self-identify as different from their perceived biological sex should not be seen as a failing of the "inclusiveness" of the organisation that they work for given the very personal nature of such a declaration and its potential ramifications outside of the organisation in question.

The proposal to require disclosure on the basis of self-identified gender also sits uncomfortably alongside the requirement in section 414C(8) of the Companies Act for UK-incorporated quoted companies to disclose in strategic reports the composition of their boards and senior management by sex. Since self-identified gender may capture people without a gender recognition certificate, people without a gender recognition certificate would have to be included in the Companies Act disclosure under their sex but could be included in the Listing Rule disclosures under their self-identified gender (which may not match their sex). An issuer could be placed in the difficult position of disclosing both the sex and the self-identified gender of its board/senior management members under different pieces of legislation leading to obvious issues of privacy and identifiability.

Finally, noting that the Consultation Paper proposes to include overseas companies within the new reporting regime, the Committee would highlight that these issues may be more acute for individuals who are ordinarily resident or issuers which are based or conduct a substantial amount of activity in territories or communities in which questions of gender identity are taboo. For these individuals and issuers, accurate reporting based on gender self-identification may entail significant detriment, such as risks to personal safety and business continuity. Again, this may lead to incomplete data or inaccurate reporting, in turn impugning the integrity of the reported data.

Although the Committee raises this concern in relation to gender identity, similar considerations would apply if reporting were to be extended to sexual and romantic orientation (on which, please see our response to question 7 below).

In short, in formulating any reporting requirements, the Committee recommends that the FCA consider carefully how to balance the goal of ensuring diversity and inclusion at the highest organisational levels of issuers whilst respecting the personal privacy of the individuals concerned and ensuring that information reported by issuers is both accurate and meaningful.

Gender vs gender identity (drafting)

The Consultation Paper makes a distinction between “women” and “individuals who self-identify as women” and between “men” and “individuals who self-identify as men” (see proposed new LR 9.8.6FG and LR 14.3.28G). This is a controversial area which other organisations, including the ONS, have already considered. The Committee believes that it would be helpful for the FCA to approach the ONS, the Equality and Human Rights Commission and other bodies to discuss their views and suggestions in relation to this matter.

Data protection restrictions

Issuers (whether UK-incorporated or not) often have global operations and directors and senior management based outside the UK. We note that many countries (including those in the EU) restrict the collection of certain sensitive data and that these restrictions could pose a barrier to compliance. If issuers explain non-compliance in respect of certain directors and senior management on the basis that they are based overseas and local laws restrict the collection of the data, that means the remaining pool would be even smaller and the risk of being able to identify an individual’s answers would be greater.

Questions

Q1: Do you agree with the proposed comply or explain disclosure requirement on board diversity targets relating to gender and ethnicity?

Yes. The Committee is generally supportive of the flexibility of the proposed "comply or explain" disclosure requirement which echoes the regime of the Financial Reporting Council's UK Corporate Governance Code (the "**UK CGC**") and reflects the fact that "one size does not fit all". The Committee

notes that this disclosure requirement recognises the complexity of diversity and inclusion issues, allowing companies operating in different sectors, industries and geographies that may be at different stages of progression in terms of their approach to such issues, to respond in a manner most appropriate to them.

Q2: Do you agree with the proposed disclosure obligation to set out numerical data on the gender and ethnic diversity on a company's board and its most senior level of executive management?

Whilst the Committee understands the policy rationale of requiring companies to set out numerical data on the gender and ethnic diversity of its board and most senior level of executive management, in light of the various factors highlighted above in the introductory section, including concerns with respect to privacy, individual rights and the interaction with existing data legislation, the Committee believes that it may be more appropriate to place numerical data reporting on a "comply or explain" basis, in the same way as the Consultation Paper proposes to address reporting on diversity targets. Please see our response to question 6 below.

Q3: Do you agree with the proposed scope of who would be required to report under the new Listing Rules proposals, and those we have excluded (eg issuers of listed debt)? If you disagree, please explain why.

The Committee broadly agrees with the proposed scope and welcomes in particular the provisions designed to ensure that the proposals apply to closed-ended investment companies in a proportionate way. The Committee notes that these companies in particular tend to have boards of four or five members, many of whom will sit on other boards, thereby making concerns about the identifiability of private information especially acute.

The Committee is of the view however that the rationale for excluding "shell companies" as defined in LR 5.6.5AR is not clear. The Committee thinks such issuers ought to be capable of complying with the proposed rules provided they benefit from the same modifications as have been drafted in relation to closed-ended investment companies. The Committee nonetheless notes that the issues set out above in relation to small boards will apply to shell companies as they do to closed-ended investment companies.

Q4: Do you agree with our proposal to include overseas and smaller issuers in the new Listing Rules proposals? If not, please explain whether you would propose further flexibility within the rules, or would exclude such companies from scope?

The Committee agrees in principle that no distinction should be made between UK and non-UK issuers, nor between smaller and larger issuers. If the purpose of the proposed reporting requirements is to increase transparency within the UK markets and, in turn, to generate a better quality of corporate governance, there would appear, on the face of it, to be no logical reason to exclude overseas companies or smaller issuers from reporting. We would, however, draw attention again to our comments in the introductory section in relation to gender identity. The issues we outline there are potentially more acute for overseas and smaller issuers and their directors and executive management for the following reasons:

- There may be greater risks for issuers or individuals based in certain territories when reporting based on gender identity. This applies not only to overseas issuers, but also to UK issuers with board members, central management or significant operations based overseas;
- The applicable laws and regulations in relevant non-UK jurisdictions are likely to be different to and potentially more restrictive than the equivalent UK legislation and regulations, which may mean

that it is not possible to seek to gather or publish the equivalent data (this would exacerbate the issues that will be faced by UK issuers, as per the previous point); and

- Smaller issuers are likely, in general, to need to work from smaller sample sets due to having smaller boards and smaller executive management teams, in turn giving rise to a greater risk that granular data can be attributed to specific individuals.

As a result, if the FCA is not minded to place numerical reporting on a “comply or explain” basis for all issuers (in relation to which, please see our response to question 6 below), there may at least be value in doing so in relation to overseas and smaller issuers. This would allow an overseas or smaller issuer that perceives risks of the kinds we have described to decline to provide granular data, provided the issuer explains its decision (thereby enabling the markets to evaluate the issuer on that basis).

Q5: Do you agree with proposed targets on gender and ethnic diversity representation at board-level of companies? Should we consider any additional or different targets?

Please see our comments in the introductory section on the issues posed by proposing disclosure based on self-identified gender.

On the subject of reporting on gender/sex, the Committee questions whether the existence of section 414C of the Companies Act (which is not addressed in the Consultation Paper), alongside the voluntary reporting under the UK CGC and Hampton Alexander Review, makes the rationale for including new gender targets in an additional set of regulations as compelling as it first appears. We suggest there is scope for the FCA to undertake further separate enquiries before introducing a set of parallel but non-identical reporting that may add little but confusion to existing data.

To the extent targets are introduced, the Committee believes that guidance or exemptions will be needed to enable performance against these targets to be contextualised. For example:

- Smaller companies may see large swings in the data as one or two changes in senior positions could have a disproportionate statistical effect;
- Companies at an earlier stage of development may have more particular needs for specific technical expertise, which may in turn affect the make-up of their boards and senior management; and
- As noted in our response to question 6 below, the proposed ethnicity disclosures may need to be adapted or disapplied in relation to overseas issuers.

There may, therefore, be value in permitting companies (or possibly sub-sets of companies, such as smaller or overseas companies) to set different targets that are better suited to their size and stage of development or to set targets or sample groups that they are comfortable to report against. This could be structured in such a way that a company which adopts a different target or sample group must explain why it has done so and why it considers that the targets or groupings as proposed in the Consultation Paper are not appropriate for it. This would give investors more visibility into the company’s strategy and thinking in relation to diversity and inclusion and the promotion of a diverse pipeline.

Q6: Do you agree with the format and extent of numerical data reporting proposed in the tables in Annex 2? If not, please explain any changes you would suggest or where further clarity is needed.

The Committee notes the following:

Gender

In relation to gender and gender identity, please see the concerns highlighted in our introductory comments, in particular in relation to the requirement to provide separate data for the four positions of CEO, CFO, SID and chair, and our response to question 4.

Ethnicity

In relation to ethnicity, we would note that, given the immense range of ethnicities and combinations of heritages, any system of classifying ethnicity will inevitably be simplistic. We would therefore encourage the FCA to consider carefully whether the system of classification chosen strikes a balance between being granular enough to faithfully reflect the diversity of a board but concise enough to produce meaningful and easily interpreted data.

In particular, although the ONS system of ethnicity categorisation is in many ways a logical framework for numerical data reporting, it may hold less meaning for overseas issuers operating within cultural frameworks or with stakeholders whose perceptions of ethnicity operate along different lines. It may not, therefore, be a suitable framework for all issuers.

Gender and ethnicity

One way to alleviate these concerns may be to place numerical data reporting on a “comply or explain” basis, in the same way as the Consultation Paper proposes to handle reporting on diversity targets. This would allow an issuer that perceives problems with detailed reporting on the basis proposed in the Consultation Paper (for example, because of risks to personal safety or to the accuracy or meaningfulness of data) to:

- Dispense with reporting entirely; or
- Report numerical data in a different format that more appropriately reflects the make-up of its board and executive management or is more meaningful to stakeholders whilst, at the same time, preserving the privacy of individuals.

In both cases, in line with the “comply or explain” approach, the issuer would need to provide an explanation for not reporting numerical data in the format proposed by the Consultation Paper. This would allow an issuer to elaborate on its particular circumstances in narrative form, either instead of or alongside numerical data, thus providing investors with a more complete picture of the issuer’s stage of and pathway towards diversity and inclusion.

If adopting this approach, it would be important to allow an issuer to explain in its own words why it has chosen to report in a particular way, but there may also be value in setting out specific, mandatory content in any explanation so as to ensure that issuers are still required to assist market participants in understanding their diversity and inclusion credentials and progress. This is the model adopted, for example, by Provision 5 of the UK CGC, which requires a company that has not adopted one of the three recommended workforce engagement models to describe what alternative arrangements it has put in place and why it believes those arrangements are effective.

Any prescribed content would need to be considered carefully but might include, for example:

- A statement confirming whether the issuer has chosen not to include numerical data in the standard format because of concerns regarding personal privacy, because the data in fact collected from individuals does not provide an accurate basis on which to measure or assess diversity within the issuer’s board or executive management, or because the standard format is not meaningful to the issuer’s particular stakeholders;

- If the issuer has not presented any numerical data, an explanation of any steps the issuer is taking to enable it to publish accurate numerical data, whether in the standard form or another form, in future reporting periods; or
- If the issuer has presented numerical data other than in the standard format, why the issuer believes that the alternative format it has chosen better reflects the composition of its board and executive management and/or is more meaningful to stakeholders.

An alternative approach to placing numerical data reporting on a “comply or explain” basis could be a uniform requirement for in-scope companies to disclose their diversity policies and processes and the diversity targets that they have set for themselves and report in narrative form on the progress they are making against those targets. Whilst we acknowledge that this would provide less precise non-numerical data and would not necessarily make companies directly comparable, in our view it would provide more meaningful and nuanced data and therefore would satisfy the FCA's aim of “better company disclosures on diversity” as set out in the Consultation Paper. It would also avoid the issues that we have outlined above that arise from providing specific numerical data in the proposed tables and, in particular, avoid the risk of “outing” individuals who would want to keep certain personal information private.

Executive management

Separately, we note the proposed definition of “executive management” set out in Annex A to the draft instrument contained in Appendix 1 to the Consultation Paper. Broadly, we agree with the proposed definition but make the following comments:

- Whilst we see some rationale for including an issuer's company secretary within this definition (because this is a statutory role and the company secretary will advise the board on matters of governance), a company secretary will not usually have executive functions in the same way as directors or executive management (and, if they did, they would presumably qualify as “executive management” anyway). We therefore suggest that this reference be removed from the definition; and
- Different issuers will inevitably structure their organisational management in different ways. Consequently, the sample set for one issuer may be significantly smaller or larger than for another. There may therefore be value in requiring an issuer to explain how it has defined and identified its executive management, whether by reference to an executive committee, some other senior executive or managerial body, the most senior level of managers reporting to the CEO or (if a “comply or explain” approach is adopted) in some other way.

Q7: Should we consider requiring similar numerical data reporting for the level below the executive management team of in-scope listed companies and/or seek data on representation by sexual orientation? If so, we welcome any drafting suggestions and views on any impact this may have for the CBA and scope of our proposals.

Levels below executive management

As noted in our response to question 6 above, different issuers will structure their organisational management differently. Some issuers may have a relatively slender layer of executive management below board level, with further tiers of managers below this who have significant powers to direct or influence the significant decisions within the issuer. For these issuers, there may be a case for reporting below the executive management team. In other issuers, the level below the executive management team may well have little or no influence over significant decisions within the issuer. For these issuers, reporting at the level below executive management may be difficult or pointless or may result in distorted or unrepresentative data. In addition, many (if not most) UK issuers will also be required to report under

the UK's gender pay-gap reporting regime on, among other things, the proportion of men and women in each of four pay quartiles, which in turn provides some granular detail on gender diversity and inclusion more generally within the issuer's organisation. For certain issuers, therefore, mandatory reporting below the top level of executive management may result in unnecessary layering of data and potential confusion.

The same position would apply to reporting on ethnic diversity if proposals previously put forward by the Department for Business, Energy and Industrial Strategy for mandatory ethnicity pay-gap reporting¹ are implemented.

We see two obvious ways to address these concerns (although these are by no means the only possible approaches):

- **Define specifically in the Listing Rules what is meant by “the level below”.** This could provide issuers with greater clarity on how far down the organisational structure gender and ethnic diversity numerical data reporting extends. However, any definition of “the level below” will most likely be prone to the same difficulties as the definition of “executive management” itself.
- **Allow issuers to report on a “comply or explain” basis.** As noted above, a “comply or explain” basis to reporting numerical data, supplemented by certain mandatory explanations where the standard format is not adopted, such as an explanation of how an issuer has identified “executive management”, could allow an issuer to explain its data and tell its story more effectively. If it is felt that reporting for “the level below” is also important, the same approach could be adopted.

Sexual and romantic orientation

The Consultation Paper employs the phrase “sexual orientation”. We would note that it is increasingly common to refer to “sexual and romantic orientation”, or to distinguish between “sexual orientation” and “romantic orientation”, in particular in recognition of the fact that some individuals may identify as asexual or may not feel defined by sexual attraction.

From a purely terminological perspective, therefore, we would encourage the FCA to consider adopting a more reflective definition, such as “sexual and romantic orientation”. For the sake of ease, we use the phrase “orientation” in this section of our response.

In short, the Committee is wholly supportive of efforts to promote diversity and inclusion among historically underrepresented individuals and groups; alongside gender and ethnicity, orientation is, among other things, an obvious area where greater transparency has the potential to produce positive outcomes. Whilst supportive in principle of efforts to promote transparency, we would highlight the following potential issues which would need to be handled carefully and delicately if the FCA were to consider introducing reporting by orientation:

- **Personal privacy.** The concerns we raise in our introductory comments on gender identity apply equally to orientation. Indeed, it may well be that public disclosure of an individual's orientation may carry greater risks to personal safety and a greater risk of harm to interpersonal relationships than disclosure of gender identity for directors and executive management of both UK and non-UK issuers. As a result, we would encourage the FCA to proceed carefully and sensitively if proposing to introduce numerical reporting or targets in relation to orientation; and
- **Classification.** There is no widespread and standard system for classifying sexual or romantic orientation. Whilst classification of gender of individuals appears generally to have settled on three categories (male, female and non-binary), a range of categories exists to describe an individual's

¹ Consultation Paper, October 2018: <https://www.gov.uk/government/consultations/ethnicity-pay-reporting>.

orientation (often with subtle nuances between categories); terminology can be understood in different ways and the precise categories that are recognised vary from individual to individual, organisation to organisation and culture to culture.

Although, as with ethnicity, the ONS has historically adopted standard categories for *sexual* orientation, these have usually been divided into four simple categories (“heterosexual or straight”, “gay or lesbian”, “bisexual” and “other”) and, indeed, in some cases, the ONS has combined “gay or lesbian” and “bisexual” into a single category of “LGB”. These systems of classification are increasingly out of step with how sexual orientation is approached. In addition, ONS categorisation has historically made little, if any, distinction between sexual orientation and *romantic* orientation.

As a result, reporting based on orientation would need to grapple with more difficult terminological distinctions than gender without the assistance of an expansive framework such as that which exists for ethnicity. If the FCA is unable to identify a suitable classification framework on which to base reporting, it would need to be sufficiently confident in creating its own.

Taking these concerns into account, we would make the following recommendations should the FCA decide to implement reporting on diversity and inclusion based on orientation:

- **Classification system.** Whether the FCA chooses to adopt a pre-existing classification system for orientation or to create its own, it should take any decision in collaboration with reputable representative groups and consult publicly on that system;
- **Right not to disclose.** As is contemplated by the proposals in the Consultation Paper for numerical data reporting on gender and ethnicity, we strongly recommend that individual members of boards and executive management be afforded an explicit option not to disclose their orientation as part of an issuer’s data collecting and reporting exercise. It should not be an implicit condition of taking a directorship or executive position at an issuer that a person is required to “out” themselves;
- **Basis of reporting.** The FCA should give very careful consideration to whether any numerical data reporting based on orientation should be mandatory (as the Consultation Paper proposes for gender and ethnicity data reporting) or operate on a “comply or explain” basis, as we have suggested may be a flexible alternative for gender and ethnicity data reporting; and
- **Targets.** Given that, simplistically speaking, orientation is often a less “visible” personal trait than gender or ethnicity, the FCA should give careful consideration to whether targets based on orientation are appropriate and, if so, how they should be set and should consult publicly on this.

Other bases of reporting

Question 7 seeks views solely on reporting based on orientation. However, paragraph 1.4 of the Consultation Paper moots the possibility in due course of introducing reporting based on other points of diversity and specifically mentions disability and lower socio-economic background.

At this stage, we would note simply that disability and socio-economic background are also complex areas, albeit ones that have received some focus of methodological study in the past and hence benefit from a more developed degree of classification and systemisation. Both, however, can manifest themselves as non-visible personal traits and so similar issues regarding personal privacy and public declaration are likely to be relevant in this respect.

Q8: Do you agree with proposed amendment to DTR 7.2.8AR to add to the examples of diversity aspects included in DTR 7.2.8AR which issuers could disclose in their reporting on their

diversity policy, and to extend consideration to key board committees? If not, please explain why.

Yes. The Committee is supportive of the proposal to increase the examples of aspects of diversity that a company's diversity policy could cover and to include board committees in this requirement. However, the Committee believes that it would be helpful if further clarity could be provided on the meaning of "key committees" in this context.

Q9: Do you agree with our proposed new guidance provision DTR7.2.8CG encouraging in-scope issuers to consider providing numerical data to further inform reporting on the results of their diversity policies? If not, please explain why.

In view of the issues highlighted above, principally with respect to numerical data reporting, the Committee is of the view that further thought should be given to this proposal, although the Committee appreciates that it is proposed that the new provision would take the form of guidance.

Q10: Do you agree with the proposed implementation timing? If not, please explain why and indicate what alternative timeframe you consider appropriate.

The Committee is of the view that the proposals should apply to accounting periods starting on or after 1 January 2023 in order to provide companies a sufficient period to implement any changes to give effect to the proposals and gather the relevant data. The Committee would note however that it is important that the various complexities and issues surrounding diversity and inclusion which are highlighted throughout our response are given appropriate consideration ahead of any implementation.

Q11: Do you agree with our phased approach to improve our use of data over time? Should we consider other approaches? If so, please suggest these.

The Committee is not responding to this question.

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