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Diversity and inclusion – embracing the true colours in financial supervision

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Executive summary

In the financial sector, "diversity" often refers to having staff or customers with different dimensions such as gender, ethnicity, sexual orientation, age, social background and physical or mental ability, while "inclusion" means valuing and accepting people for who they are and providing them with equal and fair opportunities. Diversity and inclusion (D&I) can be considered internally in a financial institution in terms of the composition of its board of directors, management and staff members, or externally in terms of its dealings with customers and the public. One of the main focus of diversity has been on gender, but the scope is expanding to cover other diversity dimensions, including age, disability, race and ethnicity.

Sound D&I practices by financial institutions can support the core prudential objective of promoting the safety and soundness of the financial sector. D&I can support prudential objectives by improving the quality of corporate governance of regulated financial institutions. It is observed that a commonly desired regulatory outcome of D&I is to avoid groupthink by including people with different lived experiences at all levels within a financial institution. Diverse teams that are inclusive also perform better because they are more likely to re-examine facts, encourage greater scrutiny, become more aware of bias and minimise the risk of blindness to information. In addition, in promoting the fair and equitable treatment of customers, D&I requirements contribute to the mitigation of reputational and legal risks. Therefore, even without a specific mandate to advance the D&I agenda, prudential supervisors may introduce D&I requirements to achieve their fundamental safety and soundness objectives.

Overarching legislation on social justice typically underpins specific regulatory instruments that elaborate how laws related to D&I are to be implemented in the financial sector. This is unlike other areas of prudential supervision in which regulatory requirements or guidance are issued on the basis of legal powers accorded to a prudential supervisor under relevant financial sector supervisory legislation. The underlying legislation provides the force of law from different angles, ranging from the public accountability of financial sector regulators to D&I objectives to financial sector-specific requirements. Nonetheless, there are conduct and prudential justifications for regulatory interest in D&I, as set out above.

D&I regulatory approaches vary significantly across jurisdictions. In certain jurisdictions, the emphasis is very much on the diversity of decision-makers within firms in order to promote sound business strategies. In other jurisdictions, the focus is on advancing broader social justice policies aimed at the inclusion of underrepresented groups of the population in the workforce. In addition, some jurisdictions focus mainly on customer-related issues from the perspective of the accessibility of financial services. It might be worthwhile for financial regulators to consider consolidating these disparate regulatory issuances, to have a coherent regulatory framework covering all D&I aspects that matter for financial institutions. Firms themselves would benefit from such a holistic approach to D&I.

International regulatory standards call for banks to establish a sound corporate governance framework that is underpinned by well qualified board members not only individually but also collectively. Some regulators implement these standards from a broader diversity perspective, for example, by requiring diversity of board members in terms of an underrepresented gender. One of the

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main regulatory objectives relevant to D&I is for boards of directors as a whole to possess "collective suitability", which can be measured from various diversity perspectives, including gender and ethnicity. In practice, D&I regulations aiming to achieve this objective establish minimum requirements on suitability assessments, board composition, succession planning, and remuneration and recruitment practices. To make further progress in this area, supervisory review processes need to embed such requirements in order to facilitate proper implementation.

From a conduct of business perspective, unfair business practices typically impact the "inclusion" more than the "diversity" of customers. Financial consumers have the right, as in any consumer relationship, to equitable and dignified treatment conditions. Discriminatory and exclusionary business practices can have prudential implications for firms, for example through reputational risk, lawsuits or regulatory fines. As such, sound D&I conduct by firms is not only relevant for authorities with a conduct of business mandate, but also for prudential authorities more generally.

Market discipline is another key component that fosters sound D&I practices. Accordingly, D&I regulation often requires banks to disclose their D&I policies or strategies, the objectives of those policies and the measurement of progress. Indeed, major financial institutions, especially listed firms, typically publicly disclose their internal D&I policies, initiatives and in some cases, targets. Disclosure of the appointment of members of the board of directors is particularly important to support the overarching D&I objective of diversity of thought (or cognitive diversity) for better decision-making. However, it is uncommon to find disclosure of customer-related D&I policies.

While there has been noticeable progress in improving firms' D&I, especially in the area of gender, the pace needs to accelerate and the scope to be broadened to other dimensions. Specifically, a gender-balanced target for boards of directors, senior management and firms as a whole remains elusive. The gender pay gap has not narrowed, partly due to men holding more higher-paid senior level positions in firms. Other areas of diversity should also be considered – including age, ethnicity, sexual orientation and socio-economic background, amongst others – to promote diversity of thought and, ultimately, the financial safety and soundness of firms. Nevertheless, it should be recognised that some cultural and societal issues, which go beyond the regulatory remit, need to be addressed first before any meaningful change can be introduced in the financial sector.

International standards and guidance on D&I might be helpful to prompt progress in improving the quality of corporate governance of regulated financial institutions, thus enhancing the safety and soundness of firms, and of the financial sector. While existing international standards and guidance do cover corporate governance from a diversity angle, they could be more explicit in articulating expectations on D&I more specifically. Financial sector supervisors would benefit from clear guidance on the extent of their regulatory remits in promoting D&I in support of their core prudential objectives. Nevertheless, it should also be acknowledged that D&I is not a silver bullet to address corporate governance deficiencies in firms. In other words, D&I is a necessary but not a sufficient condition to promote sound corporate governance practices.

Section 1 – Introduction

1. **Since the dawn of time, humans have lived and developed in groups.** These groups can be defined in different ways – geographically, biologically, demographically, economically etc. We are used to putting people into different boxes according to those dimensions, for example, west/east, male/female, black/white, poor/rich, old/young or non-disabled/disabled. This is, to a certain extent, understandable given the visible traits of such characterisations. Yet, increasingly, many parts of society reject such an over-simplified, binary way of thinking and the negative consequences it entails in terms of stereotyping, discrimination, exclusion and bias.

2. **Many societies today are a melting pot of people from different backgrounds, cultures, ethnicities, political ideologies, ways of thinking, religious beliefs and nationalities, amongst other dimensions.** Societal norms are being redefined, for example, the role of women, "traditional" family units and gender identities, to name a few. Recent tragic high-profile racial discrimination cases[2] have galvanised global movements and put diversity and inclusion (D&I) under an intense media spotlight. As a result, there are growing societal expectations and pressures on industries, including the financial services industry, to act on D&I issues. In broad terms, "diversity" is generally understood to mean reflecting the broader societal make-up, while "inclusion" means accepting people for their true selves and being given a "seat at the table".

3. **D&I is not a new issue in the financial sector.** Traditionally, financial supervisory frameworks view D&I mainly from the perspective of the suitability of persons. A classic example is regulatory requirements for financial institutions to appoint diverse memberships of boards of directors in terms of gender, professional background, knowledge and skills etc. The prudential aim of such requirements is to establish checks and balances by avoiding groupthink so that decisions taken and strategies pursued are in line with a firm's interest and not that of any particular dominant individuals. Increasingly, D&I is being considered in a more explicit and holistic manner by financial supervisors,[3] covering aspects beyond corporate governance such as conduct of business and disclosure requirements.

4. **From a private sector perspective, financial institutions are paying greater attention to environmental, social and governance (ESG) issues.** Shareholders and customers expect financial institutions to observe high ESG standards. Failure to do so can expose firms to significant reputational risk. This could explain why, even without specific D&I international regulatory standards or explicit jurisdictional regulatory requirements, many financial institutions have taken steps to improve their ESG practices. Increasing regulatory scrutiny on climate and environmental issues (the "E" of ESG[4]) is also attracting greater supervisory attention to governance (the "G" issues) including D&I matters.

5. **In this paper, we examine emerging regulatory approaches[5] to the D&I practices of financial institutions.** Through desktop reviews and surveys covering six[6] financial regulatory authorities, we outline the range of D&I regulatory practices. In Section 2, we explain what D&I means and why it is a

[2] For example, the murder of George Floyd that prompted the global Black Lives Matter movement.

[3] In this paper, the terms "regulation" and "supervision"; and "regulators" and "supervisors" are used interchangeably.

[4] Ehlers et al (2022) outlines how the "S" and "G" components cover D&I of a firm. Conceptually, this means that financial regulators can review the "S" and "G" components of ESG scores as one source of input in assessing firms' diversity and inclusion practices. However, the study found that currently, ESG ratings should be used with caution as they lack transparency in terms of the underlying rating methodologies. The ratings may provide inconsistent and divergent results and are open to conflicts of interests on the part of the ESG ratings business.

[5] This paper is not focused on financial inclusion issues. Rather, it covers financial inclusion from a narrow perspective of inclusive customer policies that firms may adopt or regulators may require.

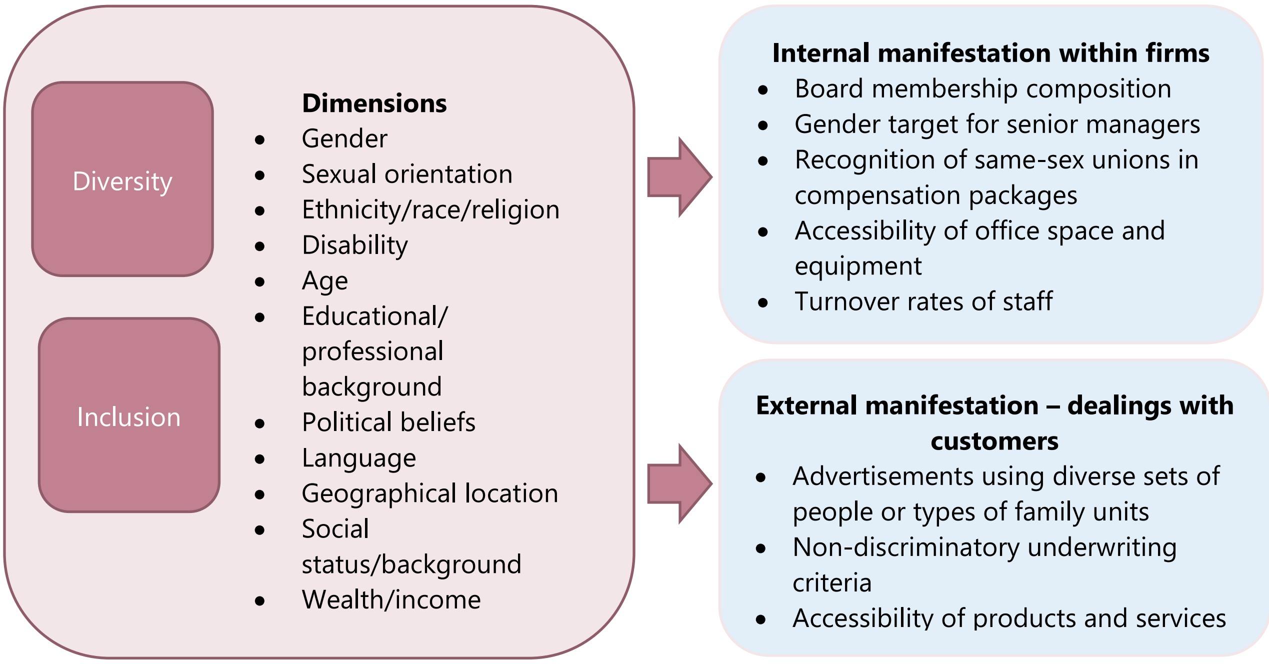
[6] We would like to thank colleagues from the Central Bank of Argentina, Bank of England, European Central Bank, Hong Kong Monetary Authority, South African Reserve Bank and the Office of the Comptroller of the Currency, United States for providing input for the paper.

prudential issue. Section 3 outlines the form of the enabling legislation that underlies regulatory action in this area. Sections 4 to 6 explain the substance of D&I regulatory approaches, covering corporate governance, conduct of business and disclosure aspects, respectively. Section 7 briefly explains how proportionate D&I requirements can be put in place and Section 8 concludes.

Section 2 – Conceptual background of D&I and its prudential relevance

6. **"Diversity" in the context of financial institutions can be defined as having board members, employees or customers with different dimensions such as gender, educational background, ethnicity, sexual orientation, age and physical ability, while "inclusion" means accepting people for who they are and providing equal and fair opportunities for them.** Concretely, a manifestation of "diversity" within a financial institution is to have a workforce that reflects a society's composition. "Inclusion", on the other hand, means all employees can bring their "whole selves" to work without hiding any aspects of their personal background, although this may be regarded as unrealistic in practice. An alternative formulation of "inclusion" is for all employees to have access to physical and psychological safe spaces so that they are able to contribute their full potential. In terms of a firm's customer base, diversity means acknowledging the different profiles of its customers and striving to cater to their financial needs. To be inclusive, firms need to avoid business processes (for example underwriting or pricing) that could exclude certain segments of society or treat certain demographics unfairly due to their personal traits. Figure 1 provides non-exhaustive examples to describe how D&I manifests within a financial institution's organisational structure and, externally, in their interactions with customers.

Figure 1: Illustration of manifestation of D&I touchpoints of a financial institution



7. **In some regulatory frameworks, in addition to "diversity" and "inclusion", "equity" or "equality" are explicitly considered, expanding the acronym to "DE&I".** These concepts are not mutually exclusive or independent. "Equity" and "equality" can be viewed as the desirable outcomes of D&I. Equity is generally understood to mean treating people fairly, recognising their different personal circumstances. Equality implies treating people in the same way, which does not necessarily result in equity given the different situations people can be in and the different starting points. While there are benefits

to explicitly mentioning the "E" when discussing D&I issues, for simplicity this paper considers "equity" as being included in the concept of D&I.

8. **There is currently no globally accepted definition of "diversity" and "inclusion" in the context of financial sector supervision.** Table 1 highlights definitions stated in or implied by the documents reviewed.

Definitions of diversity and inclusion in different jurisdictions — Table 1

Jurisdiction	Diversity	Inclusion
Argentina[7]	Promotion of inclusive and diverse work environments in terms of gender, geographic origin, age, ethnic profile, professional experience, family composition and caregiving responsibilities.	
Republic of Ireland[8]	Diversity refers to the existence and acceptance of differences between people in whatever form they take.	Inclusion is about helping people feel involved and valued regardless of their difference and making the best use of diverse talent.
European Union[9]	Diversity means the situation whereby the characteristics of the members of the management body – including their ages, genders, geographical provenances, and educational and professional backgrounds – are different to an extent that allows a variety of views within the management body.	-
Hong Kong SAR	-	Financial inclusion refers to efforts to remove barriers that hinder access to basic banking services and to promote access to basic banking services by different segments of the society to meet the basic daily needs of the public and the operational needs of legitimate businesses.
South Africa[10]	Diversity should be understood as the varied perspectives and approaches offered by members of different identity groups. For the purposes of the King Code on Corporate Governance for South Africa, it includes diversity in the field of knowledge, skills and experience in addition to age, culture, race and gender.	-
United Kingdom[11]	Diversity of thought means bringing together a range of different styles of thinking among members of a group. Factors that could lead to diverse thinking could include, but are not limited to, different perspectives, abilities, knowledge, attitudes, information styles and demographic characteristics, or any combination of these.	Inclusion means that everyone feels involved, valued, respected and treated fairly, and that these elements are embedded into a firm's culture. Inclusion can be defined as the practice or policy of providing equal access to opportunities and resources for people who might otherwise be excluded or marginalised, for example due to demographic characteristics.

7 See Central Bank of Argentina (2020a).

8 See Central Bank of Ireland (2020).

9 See European Union (2013b).

10 See Institute of Directors Southern Africa (2016) for King IV Code, an industry code of governance for listed companies.

11 See Bank of England and Financial Conduct Authority (2021).

United States[12]	Diversity is defined as "minorities and women" where "minorities" are defined as Black Americans, Native Americans, Hispanic Americans and Asian Americans. Regulated financial institutions can adopt a broader definition to include people with disabilities, veterans, LGBTQI+ (lesbian, gay, bisexual, transgender, queer and intersex).	Inclusion is a process to create and maintain a positive work environment that values individual similarities and differences, so that all can reach their potential and maximise their contributions to an organisation.

Source: FSI staff.

9. **The main focus of diversity has been on gender, but the scope is expanding to cover other diversity dimensions.** In some cases, specific dimensions of "diversity" are defined in overarching legislation, for example the Equality Act 2010 that applies in Great Britain sets out "protected characteristics" for the purposes of anti-discrimination law.[13] In other cases, the definitions of "diversity" and "inclusion" are context-specific, such as in the financial regulatory standards in the United States, as shown in Table 1 above. In South Africa, the ethnicity dimension is emphasised. Republic of South Africa (2004) defines "broad-based black economic empowerment" to mean the economic empowerment of all black people including women, workers, youth, people with disabilities and people living in rural areas. It sets out a number of other objectives including achieving equitable representation in all occupational categories and levels in the workforce. Table 2 shows the range of diversity dimensions covered or mentioned in the different regulatory frameworks or consultation papers.

Dimensions of diversity and inclusion covered in the different jurisdictions — Table 2

	Gender	Age	Ethnicity/ race/religion	Sexual orientation	Disability	Educational/ professional background	Others
Argentina	●	●	●	●	●	●	Geographic origin, nationality, family composition, caring responsibilities, ideology, political or trade union opinion, economic status.
European Union	●	●				●	Geographical provenance.
Hong Kong SAR	●	●	●	●	●		Marital status, pregnancy, breastfeeding, family status.
South Africa	●	●	●		●	●	
United Kingdom[14]	●	●	●	●	●		
United States	●		●				

Source: FSI staff.

10. **Sound D&I practices by financial institutions can support the core prudential objective of promoting the safety and soundness of the financial sector.** One way in which D&I can support prudential objectives is by improving the quality of corporate governance of a regulated financial

[12] See Office of the Comptroller of the Currency et al (2015). These standards were issued under section 342(g)(3) of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

[13] See definition of "protected characteristics" from the Human Rights Commission.

[14] Based on the Equality Act 2010 – see United Kingdom (2010). A broader set of characteristics were considered in the discussion paper published by the Financial Conduct Authority and the Prudential Regulation Authority.

institution. It is observed that a common desired regulatory outcome of D&I is to avoid groupthink at all levels within a financial institution. European Central Bank (2021a,b) describe how diversity in leadership can improve the corporate governance of financial institutions through effective challenging, better decision-making and minimisation of potential conflicts of interest. This idea is enshrined in legislation, as in European Union (2013a), that states that a lack of diversity can lead to groupthink, which can result in a lack of monitoring of management decisions by management bodies. Visco (2021) and European Central Bank (2021b) added that diversity can also minimise concentrations of power within a firm and avoid decision-making by dominant personalities. Central Bank of Ireland (2018) further elaborated that D&I can reduce overconfidence by decision-makers, improve risk management and reduce excessive resistance to external challenges. From a supervisory perspective, the Central Bank of Ireland (2018) found that a lack of D&I at the board and senior management levels of a financial institution is a leading indicator of heightened behaviour and culture risks. Haldane (2016) attributed most bank failures in the Great Financial Crisis to groupthink that was brought about by lack of diversity within those firms. Besides corporate governance, D&I can contribute to better conduct relating to business practices, for example through reduced reputational and legal risk exposures, which in turn support prudential objectives. D&I disclosure, for example on the gender compositions of boards, can also reinforce prudential objectives through the self-accountability of firms.

11. **Nevertheless, pure D&I objectives may sometimes conflict with other prudential objectives.** In particular, certain suitability of person requirements could inhibit progress in D&I within firms. For example, European Central Bank (2021b) highlighted that requirements regarding minimum levels of experience may make it difficult for positions to be filled by women. This can be the case due to prolonged absence from work due to childbirth and caregiving responsibilities. As such, there could be cases in which D&I objectives cannot be achieved because of other competing fit and proper assessment criteria. It is challenging for supervisors to balance such trade-offs. Having a clear regulatory statement on such trade-offs can be helpful for firms. For example, European Banking Authority and European Securities and Markets Authority (2021) states institutions should not recruit members of the management body with the sole purpose of increasing diversity to the detriment of the functioning and suitability of the management body collectively, or at the expense of the suitability of individual members of the management body. Ultimately, the litmus test is to assess whether an individual contributes to the collective suitability of the board as a whole.

12. **From a business perspective, studies have found that firms with more diverse workforces tend to have better financial performance.** Garcia-Meca et al (2015) outlined empirical evidence from a study of over 150 banks in nine countries showing that gender diversity tends to increase the performance of banks. Conceptually, checks and balances that are in place through constructive challenges to business decisions, together with strategies devised by decision-makers who come from diverse backgrounds, should lower operational and reputational risks, thus improving financial performance. It is reasonable to expect that a more diverse and inclusive firm should be able to generate more stable and sustainable returns and be able to adapt its business model to better cope with changes in its business environment. The World Economic Forum[15] found that diverse and inclusive workforces can increase innovation and economic competitiveness. Nevertheless, there are countervailing studies that have found that diverse boards can "backfire" by increasing the number of unproductive conflicts. Indeed this could negate the whole purpose of D&I. Figure 2 summarises how good D&I practices can support prudential objectives.

[15] See World Economic Forum (2019). World Economic Forum (2020b) states that improving diversity, equity and inclusion across the entire innovation chain will be fundamental to broadening the pool of potential talent, improving the capacity of new solutions to reflect the needs of society and making sure that all segments of society participate fairly in the economic benefits generated through innovation.

Figure 2: Prudential relevance of sound D&I policies and practices by financial institutions

13. **Some financial regulatory agencies may have specific mandates to promote D&I.** Kirakul et al (2021) found that supervisory authorities that are also central banks tend to have broader developmental mandates than standalone prudential authorities. Such mandates may include financial sector development and financial inclusion, which may prompt those authorities to take a more proactive role in promoting an inclusive financial sector for underserved segments of the population. In Argentina, the central bank, which is also the prudential authority, has a mandate[16] to promote economic development with social equality – a key objective of D&I measures. In May 2020, the central bank created a specific Department for the Promotion of Gender Policies, Respect and Workplace Coexistence, with the aim of promoting, developing and implementing policies to support the preservation of gender rights, diversity and equality within the organisation and the financial system in general.

14. **Some regulatory standards on D&I seem to go beyond prudential objectives, to address other market developmental and socio-political objectives.** In the United States,[17] financial regulators[18] encourage regulated firms to assess whether their supplier diversity policies provide fair opportunities for minority-owned and women-owned businesses. Other regulators with market development, financial inclusion and competition objectives may also introduce regulatory requirements on D&I to support these objectives. In particular, with some regulators increasingly focused on promoting innovation in the financial sector,[19] improving D&I in financial institutions can directly contribute to this broader mandate by breaking silo or historical inertia, and encouraging experimentation with new ideas. In South Africa, the Prudential Authority collaborates with the Competition Commission in order to grant approvals for certain transactions involving financial institutions, such as mergers and acquisitions. This collaboration aims to achieve several policy objectives including promoting employment and advancing the social and economic welfare of South Africans; ensuring that small- and medium-sized enterprises

[16] See www.bcra.gob.ar/Institucional/BCRALaw.asp.

[17] See Office of the Comptroller of the Currency et al (2015).

[18] The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Bureau of Consumer Financial Protection, and the Securities and Exchange Commission.

[19] Kirakul et al (2021) lays out selected financial regulatory authorities with fintech and innovation mandates.

have equitable opportunities to participate in the economy; and promoting a greater spread of ownership, in particular to increase the ownership stakes of historically disadvantaged persons.

Section 3 – Governing legislation

15. **In the sampled jurisdictions, overarching legislation on social justice typically underpins specific regulatory instruments that elaborate how laws related to D&I are to be implemented in the financial sector.** This is probably because D&I issues are not specific to the financial sector but cut across different industries and the competencies of different public sector authorities. Having a legislative foundation to support financial regulatory actions on D&I is important in order to provide regulatory requirements or expectations with the force of law. A lack of explicit legislation or clear D&I regulatory communications, such as supervisory expectations, may hinder progress in this area. Without the force of law, it is difficult for supervisors to take action against firms that are found to have gaps in their D&I policies and practices. In addition, a lack of awareness or understanding within supervisory authorities of the prudential relevance of D&I can be a challenge. Table 3 shows the range of legislation that support regulatory approaches on D&I in selected jurisdictions.

List of legislation underpinning D&I regulatory issuances Table 3

Jurisdiction	Legislation	Coverage of legislation on D&I issues
Argentina	Law No 23.592 (1988): Anti-discriminatory practices	Enshrines fundamental rights and guarantees, as recognised in the National Constitution.
	Law No 5261 (2015): Law against discrimination	Guarantees and promotes the principle of equality and prevents discrimination through inclusive public policies.
	Laws No 26.485 (2009) and No 27.533 (2019): Comprehensive Women's Protection Act	Contains legal provisions to prevent, prosecute and eradicate violence against women.
	Law No 26.743 (2012): Gender Identity	Allows transgender people to be registered in personal documents with the name and gender of their choice.
	Law No 24.240: Consumer Defence	Sets out standards to preserve respect for consumer rights. It requires companies to respect consumers' rights to protection and safety, education, decent treatment and to provide offers and advertising and that are relevant to the economic interests of the consumer.
European Union	Treaty on the Functioning of the European Union	Sets out overarching aim to eliminate inequalities, and to promote equality between men and women including in the labour market and treatment at work.
	Directive 2019/878	Requires firms to observe gender neutral remuneration policies and sets out the role of competent authorities in issuing guidelines.
	Directive 2013/36/EU	Sets out governance-related requirements on firms and establishes the role of competent authorities. Requires institutions to have diversity policies in place, including targets for the representation of the "underrepresented gender" in the management bodies.
	Regulation (EU) No 575/2013	Requires institutions to disclose information regarding their policy and targets on diversity.
	National laws of member states	Includes governance and diversity related requirements in line with the abovementioned European Union legal framework.

Hong Kong SAR	Sex Discrimination Ordinance	Prohibits discrimination against a person on grounds of sex, marital status, pregnancy or breastfeeding, in prescribed activities including employment and the provision of services.
	Disability Discrimination Ordinance	Outlaws certain acts that discriminate against a person on the basis of disability in relation to prescribed activities including employment and provision of services.
	Family Status Discrimination Ordinance	Prohibits discrimination against a person on the grounds on grounds of "family status", defined as having a responsibility for the care of an immediate family member in relation to prescribed activities including employment and the provision of services.
	Race Discrimination Ordinance	Protects people against discrimination, harassment and vilification in relation to prescribed activities, including employment and the provision of services, on the basis of their race. This includes the colour, descent, and national or ethnic origin of a person.
South Africa	Broad-based Black Economic Empowerment Act 53 of 2003	Commits parties including financial authorities to actively promote a globally competitive financial sector that reflects the demographics of South Africa, and contribute to the establishment of an equitable society by effectively providing accessible financial services to black people and by directing investment into targeted sectors of the economy.
	Employment Equity Act 55 of 1998	Promotes equal opportunity and fair treatment in employment by eliminating unfair discrimination and implementation of affirmative action measures to redress the disadvantages in employment experienced by different groups in order to ensure equitable representation in all occupational categories and levels in the workforce.
	Insurance Act 18 of 2018	Specifies that one of the objectives of insurance supervision is to promote broad-based transformation of the insurance sector as envisaged under the Broad-based Black Economic Empowerment Act. Requires a licensee to have a plan to meet its stated commitments in terms of transformation in the aforementioned Act.
	Financial Sector Regulation Act 9 of 2019	Sets transformation of the financial sector as envisaged under the Broad-based Black Economic Empowerment Act as one of the objectives for financial regulators in South Africa.
United Kingdom	Equality Act 2010	Sets out "protected characteristics" and the law on equal pay. Places public sector equality duty on financial authorities when making decisions and setting policies. Sets out objectives to eliminate discrimination, advance equality of opportunity and foster good relations among different groups of people.
United States	Dodd-Frank Act	Establishes an Office of Minority and Women Inclusion (OMWI) within each of several agencies to be responsible for all of the agency's matters relating to diversity in management, employment and business activities. Requires the OMWI director of each agency to develop standards for assessing the diversity policies and practices of entities regulated by the agency.

Source: FSI staff.

16. **The underlying legislation provides the force of law from different angles, ranging from public accountability of financial sector regulators in relation to D&I objectives, to financial sector-specific requirements.**[20] For example, in the United Kingdom, the Prudential Regulation Authority and the Financial Conduct Authority are subject to the public sector equality duty[21] that sets out how these authorities need to fulfil D&I objectives when exercising their functions. In Hong Kong SAR, the general legislation on sex and disability discrimination, while not specifically targeted at the financial services sector, has been transposed into provisions in the industry code for banking institutions in Hong Kong SAR (the Code of Banking Practice). In the United States, the Dodd-Frank Act puts in place an accountability mechanism through the establishment of the Office of Minority and Women Inclusion in each of several financial sector regulators. The offices are required to provide an annual report to the United States Congress on actions taken by the relevant financial sector regulators[22] with respect to D&I requirements. Unlike these jurisdictions, the European Union has specific legislative requirements in the capital rules, for financial institutions to have diverse management bodies. In particular, European Union (2013a) empowers the European Banking Authority to issue guidelines on diversity and requires the authority to regularly report to the European Commission on the outcomes of its benchmarking studies[23] of gender diversity practices of banks in the European Union.

17. **Financial authorities typically need to collaborate with other government and public sector agencies in introducing D&I requirements in the financial sector.** For example, in Argentina, the Central Bank of Argentina and the Ministry of Women, Gender and Diversity established a Promotion of Gender Policies, Respect and Appropriate Workplace Behaviour Management Office to contribute to the removal of gender inequality within the central bank and in the broader financial system. The Ministry of Women, Gender and Diversity is responsible for the overall design, implementation and evaluation of national public policies on gender, equality and diversity. The central bank also collaborates with the National Securities Commission and the Ministry of Economy to develop a Financial Education Programme[24] with a gender perspective aimed at different audiences, and with the objective of promoting social inclusion. In some jurisdictions such as Hong Kong SAR, South Africa and the United Kingdom, industry-led codes of conduct specify D&I-related expectations for firms. To support regulatory guidelines on D&I in Hong Kong SAR, the banking industry provides implementation details in the form of specific industry codes of conduct and guidelines.[25] In Hong Kong SAR, the Equal Opportunities Commission is responsible for the enforcement of the four anti-discrimination laws that also apply to the financial sector. The Institute of Directors in Southern Africa established the King Code on Corporate Governance for South Africa that requires governing bodies of firms to set targets for race and gender representation in its membership, amongst other D&I requirements. Regulators in the United Kingdom collaborate with government departments such as HM Treasury, Department of Business, Energy and Industrial Strategy and the Government Equalities Office on D&I issues. In addition, the regulators also work with the Equality

[20] Some regulatory frameworks are becoming more explicitly inclusive in terms of language used in regulatory issuances. For example, in the United Kingdom, the Prudential Regulation Authority and Financial Conduct Authority have reviewed their policy documents to ensure more inclusive language and will continue doing so for new policies. In Hong Kong SAR, the supervisory manual defines "he/his" as covering all genders including neuter genders.

[21] The public sector equality duty requires public authorities in the United Kingdom to have due regard to the need to achieve the objectives under the Equality Act 2010 including eliminating discrimination and advancing equality of opportunity for various groups of people. For more information see www.gov.uk/government/publications/public-sector-equality-duty.

[22] These include Office of the Comptroller of the Currency; Board of Governors of the Federal Reserve System; each of the Federal reserve banks; Federal Deposit Insurance Corporation; National Credit Union Administration; Bureau of Consumer Financial Protection; the Securities and Exchange Commission; the Departmental Offices of the Department of the Treasury; and the Federal Housing Finance Agency.

[23] See here for the visualisation tool of the benchmarking study conducted in 2019.

[24] See www.bcra.gov.ar/BCRAyVos/Programas-Educacion-Financiera-bcra.asp.

[25] See the Hong Kong Association of Banks (2018), (2020) and (2021).

and Human Rights Commission[26] in the discharge of their public sector equality duty and with the Financial Reporting Council on D&I disclosures for listed firms.

Section 4 – Corporate governance

18. **International regulatory standards call for banks to establish a sound corporate governance framework that is underpinned by well qualified board members not only individually but also collectively.** Basel Committee on Banking Supervision (2015) includes a requirement that the board of directors of a bank comprise individuals with a balance of skills, diversity and expertise. Board members should collectively possess the necessary qualifications commensurate with the size, complexity and risk profile of the bank. The principles introduce the concept of collective suitability of the board, whereby board members as a whole should possess a range of knowledge and experience and have varied backgrounds to promote a diversity of views. Although the international guidelines describe diversity of thought mainly from the perspective of knowledge and expertise, some regulatory authorities have taken a broader view to deal with other dimensions of diversity, including gender (see Table 2).

19. **In the area of corporate governance, D&I regulations cover four main aspects – suitability assessments, board composition, remuneration and recruitment practices.** The main prudential objective of promoting diversity within a firm is to encourage constructive challenges and avoid groupthink, thus contributing to sound business decisions. Table 4 provides a summary of the range of D&I aspects in publicly available regulatory requirements in selected jurisdictions.

Overview of D&I-related governance standards or issuances — Table 4

Jurisdiction	Suitability	Board composition	Remuneration	Recruitment
Argentina	●	●	●	●
European Union	●	●	●	●
South Africa	●	●	●	●
United Kingdom	●	●	●	●
United States	●	●		●

Source: FSI staff.

20. **Supervisors can adapt existing corporate governance requirements to cover D&I issues.** In other words, regulators may already have the relevant corporate governance-related requirements in place that can be applied in the context of D&I. For example, Central Bank of Argentina (2020a) adjusts the existing guidelines on corporate governance to cover gender equity in managerial positions, staff training, the promotion of inclusive and gender-diverse workplaces, as well as gender equitable management frameworks. Uniquely, it considers it good practice for financial institutions to use a gender parity criterion in determining the composition of the audit committee. The regulatory approach in the United Kingdom also places many of the D&I policies in the context of corporate governance and effective decision-making.

[26] Equality and Human Rights Commission (2019) outlines its Gender Equality Duty Code of Practice that states that "a public authority may have functions which have the potential to address the gender pay gap in a wider policy sense", and if so, "the public authority should also be considering whether it can address the causes of the gender pay gap within that wider remit where appropriate."

Suitability assessments

21. **As boards of directors are the main decision-making bodies within financial institutions, they can have a profound impact on the financial performance and soundness of those firms.** European Central Bank (2021b) emphasises the importance of diversity amongst board members in achieving the "independence of mind" criterion, which it considers critical in safeguarding a firm's safety and soundness, and in promoting public trust in the institution. As such, governance requirements surrounding the selection of people who sit on boards are critically important in preserving the safety and soundness of financial institutions and financial systems. Central Bank of Argentina (2020a) specifically emphasises gender equality at board level as a good practice which enhances discussion and enriches decision-making with regard to strategies, policies and risk-taking in financial institutions.

22. **One of the main regulatory objectives relevant to D&I is for boards of directors as a whole to possess "collective suitability".** In the European Union[27] supervisors assess whether management bodies are "collectively suitable" by considering the knowledge and skills of each individual member in the assessment of board members' suitability. Some European Union countries further tackle other diversity aspects in this assessment. In the United Kingdom,[28] supervisors assess the "collective suitability" of board members, including from a diversity perspective, before approving board member appointments. The Prudential Authority in South Africa considers gender and race diversity when undertaking suitability assessments of insurers. In the suitability assessment of board members of significant institutions, the European Central Bank assesses knowledge diversity as a component of collective suitability in line with the provisions of European Union (2013a), as implemented in national legislation. Gender is also considered in such assessments if specified in national legislation. During supervisory interviews with appointees, supervisors may pose any questions that could help determine the appointee's knowledge or future plans in relation to the supervised entity. The questions may include diversity-related topics, for example succession planning, current and future composition of the board or the firm's diversity policy. Regulators in the United Kingdom are considering clarifying suitability assessment criteria to explicitly make reference to non-financial misconduct in relation to D&I.

Board composition

23. **D&I governance requirements relating to board composition typically cover the appointment process of board members and regular reviews of board effectiveness.** In practice, board member nominations are usually overseen by a board-level nominations committee. European Union (2013a) requires significant firms' nominations committees to establish a policy to promote the diversity of their management bodies and to assess the diversity of such bodies. In the United Kingdom, nominations committees in regulated financial institutions must set gender targets for the board so that it is not dominated by a small group of board members. Central Bank of Argentina (2020a) provides guidance on how boards can approve staff selection policies that promote inclusive and diverse work environments for the appointment of senior management and other staff. Regulators in the United Kingdom are considering clarifying their licensing or threshold conditions such that firms proven to engage in discriminatory practices may be prohibited from carrying out regulated business. Effectively, a firm's D&I track record may become a consideration before being granted a licence to operate.

[27] See European Central Bank (2021b).

[28] See Bank of England and Financial Conduct Authority (2021).

Other governance-related requirements

24. **Diversity-related governance requirements may cover aspects beyond board composition, such as requirements for firms to establish policies on D&I, recruitment, retention and promotion, and management reporting and training.** This is the case in Argentina and the United States. The prudential and conduct regulators in the United Kingdom plan to cover similar areas such as succession planning, the establishment of a D&I policy and training. European Banking Authority and European Securities and Markets Authority (2021) provides guidelines for banks to have a diversity policy in place that covers at least the following dimensions: educational and professional background, gender, age and geographical provenance. Central Bank of Ireland (2020) considers it particularly important for firms to establish a D&I strategy that is aligned to their strategic objectives. Its thematic reviews of the insurance industry in Ireland identified the lack of such a strategy as a clear inhibitor to making progress in D&I. In South Africa, the Johannesburg Stock Exchange[29] requires boards of directors or nomination committees of listed firms, including financial institutions, to establish policies to promote gender and racial diversity at the board level. Nevertheless, it is acknowledged that firms may face challenges in achieving their diversity recruitment targets. In the United States,[30] a common challenge faced by the largest banks is competition for diverse talent with science, technology, engineering, maths and finance-related expertise. Some supervisors may take a more sceptical approach and consider "lack of capable candidates" to be more of an excuse than a real challenge.

25. **Like other governance-related requirements, boards of directors of firms can be assigned specific D&I oversight responsibilities.** Central Bank of Argentina (2020a) recommends that boards of financial institutions establish policies for recruitment and succession planning for key executives and that they approve, monitor and review the design and operation of the firms' remuneration system. Recruitment policies related to the appointment of senior management and other staff may consider not only gender equality but also the promotion of an inclusive work environment in terms of gender, geographic origin, age, ethnic profile, professional experience, family composition and care responsibilities. Boards are also expected to establish policies for staff education and training on gender and gender-based violence. The joint inter-agency standard in the United States also recommends that certain regulated firms appoint a dedicated executive-level D&I officer. Regulators in the United Kingdom anticipate expanding the existing senior managers regime to capture accountability for D&I as part of the culture responsibilities of the relevant senior managers.

Supervisory reviews

26. **In order to ascertain that regulatory requirements translate into concrete D&I outcomes, supervisory review assessments are an important complement to governance-related D&I requirements.** The Central Bank of Argentina has incorporated D&I governance aspects in its internal supervisory procedures so that supervisors consider these issues when assessing firms' corporate governance. The European Central Bank assesses gaps or weaknesses related to diversity, where possible, as part of its fit and proper assessments of board members, which consider the collective suitability criterion, and via ongoing supervision as part of the Supervisory Review and Evaluation Process (SREP).[31] It should be noted that inclusion is not assessed in this context, as it goes beyond the European Central Bank's remit. Depending on the outcomes of the assessments, it may impose ancillary provisions in fit and proper decisions and remind banks of the need to comply with the regulatory framework in order to improve diversity of management bodies. Slow progress in pursuing diversity of expertise may pose

[29] See Johannesburg Stock Exchange (2019).

[30] See United States House of Representatives (2000).

[31] See European Central Bank (2021d).

challenges to banks in driving strategic and sustainable business model transformation in key areas such as digitalisation. In some agencies, there might not be an explicit supervisory review process focusing on D&I aspects specifically. Nevertheless, supervisors might still indirectly capture some D&I aspects when assessing the quality of communication within the institution and the challenge role of the control functions. Supervisors may also review publicly available information such as firms' annual reports.

27. **Supervisory reviews of a firm's D&I policies and practices can be undertaken as part of a broader review of its culture.** Regulators in the United Kingdom have proposed more explicitly considering D&I aspects when assessing a firm's culture, which is already the case in South Africa. This may take the form of asking board members to explain their leadership role in promoting D&I, assessing the existence of relevant policies such as speaking up, or more generally, reviewing how D&I is embedded within a firm, its strategy, products and services. To supplement supervisory reviews, D&I audits, as contemplated in the United Kingdom, can be helpful in assessing organisational risks arising from poor D&I within firms. Industry-wide thematic reviews can also be useful in benchmarking firms and identifying outliers, to encourage laggards to improve their D&I practices.

Gender diversity

28. **Certain regulatory regimes have a specific focus on improving gender diversity in financial institutions.** European Banking Authority and European Securities and Markets Authority (2021) provide guidelines to the largest institutions to set targets for the underrepresented gender[32] in their management bodies. In the European Union,[33] supervisors assess banks' self-imposed or nationally required gender targets as part of the collective suitability assessment of the board, whenever national laws so provide. The fit and proper template[34] questionnaire used to gather information to assess an appointee includes specific questions on gender diversity and targets. Following its 2021 SREP,[35] the European Central Bank expressed concerns regarding the effectiveness of management bodies in terms of their composition and collective suitability, as well as a lack of progress in meeting quantitative gender targets. Other regulatory regimes like in Hong Kong SAR rely on broader public listing rules to set gender targets. Hong Kong SAR securities issuers (including banks) are required to step up their efforts on board gender diversity. Effective 1 January 2022,[36] issuers with a single gender board have a three-year transition period within which to appoint at least one director of a different gender.

29. **D&I gender-related policies work hand in hand to support the broader D&I objectives of firms.** For example, to attract more female applicants, firms need to demonstrate fair, gender-neutral remuneration packages. Recruitment practices should be de-biased as much as possible, to provide fair opportunities for women to enter the financial services workforce. Over the period 2022 to 2024,[37] the European Central Bank will enhance its focus on diversity as part of its work related to management bodies' effectiveness and sound decision-making in order to further improve diversity in significant institutions. The supervisory activities include data collection, targeted reviews of banks with deficiencies in the composition and functioning of their management bodies, on-site inspections and targeted risk-based fit and proper (re)assessments. In addition to the actions already undertaken, further initiatives are planned to address the lack of gender balance. The European Central Bank also plans to assess how gender diversity

[32] Underrepresented gender can be male or female, though in most cases women are underrepresented.

[33] See European Central Bank (2021a).

[34] See European Central Bank (2021c).

[35] See European Central Bank (2022b).

[36] See The Stock Exchange of Hong Kong Limited (2021).

[37] See European Central Bank (2021d).

is captured in banks' diversity and suitability policies and practices, including those related to remuneration.

30. **Besides board composition, gender diversity features in regulatory requirements relating to firm's policies on remuneration, recruitment, career development and succession policies.** The European Central Bank expects the succession policies of banks to aim to increase the representation of women in the management body. In a similar vein, Central Bank of Argentina (2020a) recommends that financial institutions consider the progressive appointment of women in new vacancies or renewals of terms until gender parity is achieved. European Union legislation[38] and guidelines[39] require remuneration policies to be gender-neutral. Institutions are expected to monitor the development of the gender pay gap separately for identified staff and members of management bodies and disclose information on the gender pay gap. Financial Conduct Authority (2015) requires conduct and prudential regulated firms in the United Kingdom to establish gender neutral remuneration policies that do not discriminate against any staff member, specifically during performance reviews and when determining variable remuneration. Regulators in the United Kingdom may introduce guidance on how firms can use D&I metrics as part of non-financial criteria when setting variable remuneration awards. Building on the Equalities Act 2010, they may also issue rules to prohibit discriminatory pay practices.

Box 1

Gender diversity in the financial sector – too little but not too late

The most prominent aspect of D&I initiatives in the financial sector is gender diversity. This can be attributed to legislation on gender equality, in some cases, requiring corporations including financial institutions to set gender targets in their workforce. Moreover, the efforts of financial institutions to improve gender diversity, especially at management level, are becoming increasingly visible. These developments are not a coincidence, as various studies have found that more gender-diverse financial institutions are better managed. For example, Arnaboldi et al (2020) examines the impact of governance reforms related to board diversity on the performance of European Union banks and concludes that a greater presence of female directors on a board, when this is legally reinforced, reduces a bank's risk. Harvard Business Review (2019) found that "having a diverse workforce helps companies acquire and retain the best talent, build employee engagement, increase innovation, and improve business performance".

While progress has been observed over the years, the pace of progress remains slow. International Labor Organization (2022) reported that the share of women in managerial positions worldwide increased only slightly between 2000 and 2019 – from 25.3% to 28.3%. Remarkably, it estimates that at the current rate of progress, it will take more than 140 years to achieve gender parity in managerial positions.

Gender composition

In the European Union, nine countries (Austria, Belgium, France, Germany, Greece, Italy, the Netherlands, Portugal and Spain) have national gender quotas applicable to management bodies. The scope and application of the quotas differ according to national legislation (often applicable beyond financial institutions, for instance to listed companies). In addition, the national quotas are not always mandatory. The highest female quota① is 40% (France, Italy and Spain), followed by 33% (Belgium and Portugal), 30% (Austria, Germany and the Netherlands) and 25% (Greece). The European Central Bank's stocktake in 2021② found that the actual average female composition amongst 91 significant institutions③ in five of these countries remains below the target (by between 3 and 12 percentage points). On a positive note, average female composition of the sampled significant institutions in four countries (Greece, Italy, the Netherlands and Spain) exceeded the gender quotas. In the Africa region, the International Finance Corporation found in a 2019 study that in Ghana only 6% of organisations had minimum thresholds for women on their board, 76% did not have minimum thresholds and 18% failed to provide valid responses. In Nigeria, fewer than 30% of companies have women in senior positions. ④

[38] See European Union (2013a).

[39] See European Banking Authority (2021b).

United States regulators recommend that certain banks⑤ monitor their D&I targets. The main indicator tracked is the number of female executives or female directors in an institution. They also focus on the number of women in mid-level management and working at a professional level. It is worth noting that the United States Equal Employment Opportunity Commission requires workforce disclosure to be further disaggregated and reported by race. In Argentina, banks are not required to set gender targets. Nevertheless, Central Bank of Argentina (2020a) considers it good practice for financial institutions to have a board of directors composed on the basis of gender parity.

Gender pay gap

Not only is female representation low at banks' management levels and within the overall workforce, women are also paid less than men. According to a report by United Nations Women,⑥ in 2017, women only made 77 cents for every dollar earned by men, thereby limiting their ability to build wealth and experience a fully inclusive workspace. In order to narrow the gender pay gap, the Equality Act 2010 (Gender Pay Gap Information) Regulations 2017 were implemented in Great Britain. These Regulations impose obligations on institutions with 250 or more employees to publish information relating to the gender pay gap in their organisations. Thus, all global systemically important banks (G-SIBs) with operations in the United Kingdom and domestic systemically important banks (D-SIBs) publish gender pay gap reports annually as a matter of compliance, including information that covers the median and mean hourly pay gap, the quartile range of mean and median gaps, and proportions of female to male employees.

Measures to improve D&I in financial institutions

Organisation for Economic Co-operation and Development (2015) recommends the adoption of measures such as voluntary targets, disclosure requirements, boardroom quotas and private initiatives that enhance gender diversity on boards and in senior management.

In the context of financial services, G-SIBs have made considerable efforts in improving diversity in their firms through more focus on gender initiatives. A majority of the firms are signatories to the *United Kingdom women in finance charter*, which sets out targets to achieve at least 30% of women in senior roles by the year 2025. Some of the firms such as Barclays, Mizuho Financial Group and Royal Bank of Canada, to name a few, are recognised in the Bloomberg Gender Equality Index (GEI) for their contributions. The GEI tracks the performance of public companies committed to disclosing their efforts to support gender equality through policy development, representation and transparency. The most common practices to improve gender diversity by G-SIBs are:

- recruiting gender-diverse talent;
- promoting education, training and professional development for current female employees and future recruits, including through mentorships and women empowerment workshops;
- connecting with diverse communities and promoting equality through community initiatives and advocacy;
- creating means for collecting and publicly reporting data on diversity; and
- ensuring a high level of health, safety and well-being of workers including supporting human rights and non-discriminatory practices as well as establishing employee resource groups.

① See European Parliament (2021). ② See European Central Bank (2022a, b). ③ All banks supervised under the Single Supervisory Mechanism (SSM) are classified as significant institutions or less significant institutions. This classification subsequently determines who is their direct supervisor – the ECB for significant banks or the national competent authorities (NCAs) for less significant banks. In both cases, the ECB oversees the system in accordance with the responsibilities and procedures outlined in the SSM Regulation. Article 6(4) of the Regulation sets out specific rules for identifying significance status. Some refer to thresholds related to a bank's size, national economic importance or cross-border activities. ④ See International Finance Corporation (2019). ⑤ See Office of the Comptroller of the Currency et al (2015). ⑥ See International Labor Organization (2016).

Section 5 – Conduct of business

31. **As financial services are people-centric, financial institutions are exposed to risks of engaging in potentially discriminatory practices that can go against D&I objectives.** Unfair business practices typically impact "inclusion" more than "diversity" in relation to customers. Central Bank of Argentina (2013) states that users of financial services have the right, like in any consumer relationships, to equitable and dignified treatment conditions. The *Treat customers fairly charter*,[40] developed by the Hong Kong Monetary Authority and the banking industry, specifies that banks in Hong Kong SAR that engage in mass retail market activities should provide the public with reasonable access to basic banking services, paying special attention to the needs of vulnerable groups. It is useful to identify customer touchpoints within a financial institution to understand areas in which customer D&I matters. Table 5 provides an illustrative example of how customer D&I issues may arise throughout all stages of the customer relationship. This matches the approach taken by the Financial Sector Conduct Authority in South Africa that requires regulated entities to deliver "treating customers fairly" outcomes to their customers throughout a product's life cycle, from product design and promotion, through to advice and servicing to complaints and claims handling.

Examples of potentially adverse impacts on customers — Table 5

Customer journey stage	Gender	Ethnicity	Disability
Sales and marketing	Targeted advertisements for women based on traditional family unit assumption (eg stay-at-home housewives).	Favourable offers to consumers living in certain postcodes that are predominantly white.	Marketing materials containing crucial information not accessible to blind consumers.
Underwriting	Additional underwriting criteria or information requests for women or non-binary genders.	Systemic rejection of consumers from a certain ethnic group.	Additional underwriting criteria or information requests for people with disabilities.
Pricing	Discriminatory pricing against women that is not based on risk profiles.	Discriminatory pricing against ethnic minorities that is not based on risk profiles.[41]	Discriminatory pricing against people with disabilities that is not based on risk profiles.
Ongoing customer servicing	Biased service levels from customer support staff eg in terms of courtesy or responsiveness.	Biased service levels from customer support staff eg in terms of courtesy, respect or responsiveness.	Difficulty in accessing full range of services (eg ATM) that require full sight, mobility, speech or hearing.

Source: FSI staff.

32. **Discriminatory and exclusionary business practices can have prudential implications for firms.** The most obvious link between poor conduct of firms and their financial soundness is through reputational risk. Mass customer withdrawals or boycott can severely impact a firm's business operations and financial position. In the worst case scenario, lawsuits or regulatory fines for discriminatory practices can impair a firm's financial position. As such, sound D&I conduct by firms is not only relevant for authorities with a conduct of business mandate, but also prudential authorities more generally. However, detecting discriminatory practices may be challenging. One way is for financial authorities to monitor consumer complaints to detect mistreatment by firms. This approach may also reveal reputational risks for

[40] See Hong Kong Monetary Authority (2013).

[41] Citizens Advice (2022) found that people of colour in England generally pay hundreds of pounds more than white people for their car insurance, a phenomenon they termed the "ethnicity penalty".

firms arising from poor D&I practices. This approach is utilised by the Prudential Authority in South Africa and the Hong Kong Monetary Authority – they focus on individual cases with consumer protection and financial inclusion implications.

33. **Major D&I regulatory issuances typically focus on governance-related aspects, and customer-related D&I issues are not usually covered.** Customer-related D&I issues may be covered in other regulatory guidelines or issuances such as those relating to risk management practices of firms. Prenio et al (2021) described regulatory frameworks on the use of artificial intelligence by financial institutions and highlighted "fairness" as one of the common elements in these frameworks. They found that fairness-related issues covered in AI regulatory issuances are mainly from the perspective of addressing or preventing biases in AI algorithms that could lead to discriminatory outcomes. Some supervisory expectations in this area are more concrete than those specified for governance-related D&I aspects. For example, firms may be required to establish an ethical code of conduct to promote non-discriminatory practices; to seek diversity in input data used in AI models; and to constantly monitor the performance of the model to identify unintentional bias or to ascertain that it behaves as intended. "Ethics" is another common principle in AI issuances and the authors found that supervisory expectations in this regard are broader than "fairness". Ethics relate to ascertaining that customers will not be exploited or harmed through bias, discrimination or other causes.

34. **There is a fine line between risk-based underwriting and pricing versus discriminating against certain segments of the population.** In other words, there is a difference between segmenting customers for underwriting or pricing purposes based on their true risk profiles versus discriminating against customers based on their personal traits. Financial Conduct Authority (2018) found that pricing practices of certain insurers in the United Kingdom risked discriminating against consumers through the use of rating factors based (directly or indirectly) on data derived from protected characteristics including ethnicity. Put simply, for example, when pricing a motor insurance policy, an insurer needs to acknowledge that being Asian or black or white does not make someone a better or worse driver.

35. **Conduct of business is an area in which "inclusion" particularly matters, arguably even more than "diversity".** To treat customers fairly – the raison d'être of conduct of business regulations – a core aspect is to avoid discriminatory business practices that can disadvantage consumers or exclude them from certain services. In Hong Kong SAR, the Code of Banking Practice,[42] issued by the banking industry and endorsed by the Hong Kong Monetary Authority, commits banks not to discriminate against any customers on the ground of family status (for example single parents), sexuality, age or race in the provision of banking services and in the quality and terms of services provided. Banks are required to provide appropriate assistance to, and adopt appropriate measures for, customers with impairments to facilitate access to banking services.[43] They are also expected to give due consideration to the community's need for banking services and the impact on customers in the vicinity, in particular the elderly and those with impairments. Banks should also provide suitable training to frontline staff to raise their awareness of the principles and guidelines in relation to equal opportunity and the provision of assistance to customers with any impairment.[44] Central Bank of Argentina (2013) sets out requirements on how banks must offer accessible banking services to people with disabilities. This includes not requiring people with reduced mobility to queue for banking services or ATMs and providing text-to-speech options in ATMs for visually impaired customers.

[42] See Hong Kong Monetary Authority (2021). Banks in Hong Kong SAR must conduct annual self-assessments of their compliance with the Code of Banking Practice.

[43] For example, The Hong Kong Association of Banks (2018) provides guidance on physical dimensions to enable barrier-free access in bank branches as well as colour contrast and voice navigation of ATMs. Banks were required to report on their implementation progress of the guidelines on a half-yearly basis until 2021.

[44] The Hong Kong Association of Banks (2021) and (2020) provide guidance on how to treat customers with dementia and intellectual disabilities respectively.

36. **Fair treatment of customers means recognising not only visually identifiable differences like gender or ethnicity, but also personal circumstances of customers.** Financial Conduct Authority (2021) outlines how firms should deal with vulnerable customers, which are defined as those who, due to their personal circumstances, are especially susceptible to harm, particularly when a firm is not acting with appropriate levels of care. It identifies four key drivers of vulnerability – health (eg physical disability), life events (income shock), resilience (eg over-indebtedness) and capability (eg low literacy levels). In support of recognising gender identities of financial consumers, Central Bank of Argentina (2015) sets out procedures to be followed in the event of rectification of identity documents such as change of sex and/or first name in the framework of the gender identity law.

37. **Certain regulatory issuances may go beyond the typical areas of regulatory focus.** For example, Central Bank of Argentina (2020b) aims to eradicate gender-based violence and discrimination in advertising in print and digital media. It requires financial institutions to avoid practices or actions that reflect or promote stereotyped views of gender, use of sexist language and portray violence against women and LGBTQI+ people. These include, for example, avoiding "mansplaining" behaviour or using images of women as objects that are unrelated to the product that is being promoted.

Section 6 – Disclosure

38. **Major financial institutions typically publicly disclose their internal human resource-related D&I policies, initiatives and, in some cases, targets.** However, it is uncommon to find disclosure of customer-related D&I policies. A comprehensive disclosure of the entire D&I focus of a firm both internal (human resource-related) and external (customer-related issues) can reinforce public trust and confidence, and serve as a self-accountability mechanism. Regulators in the United Kingdom acknowledge the importance of data and disclosure to understanding the D&I situation of firms, to monitoring progress and to holding relevant individuals and firms to account. In the United States, the Office of Minority and Women Inclusion (2022) provides useful benchmarking of aggregated publicly available D&I information about 270 regulated financial entities. This helped to outline best practice recommendations on D&I public disclosure. Nevertheless, the United States House of Representatives (2000) noted that there are challenges relating to voluntary public D&I disclosure as financial institutions may not be incentivised to make such disclosures. It called for new legislation to make such disclosures mandatory in the United States.

39. **The three common items in D&I disclosure requirements are D&I policies or strategies, the objectives of those policies and measurement of progress.** In the European Union,[45] and in the United Kingdom, banks must disclose, at least annually, their policies on diversity with regards to selection of members of the management body, the objectives of such policies and any relevant targets set out in those policies. Listed firms in the United Kingdom,[46] are also expected to include a section in their annual reports on the board's policy on diversity including gender, measurable objectives of the policy and progress in achieving them. In Argentina, financial institutions are expected to disclose on their public websites and in notes to financial statements or other periodic disclosures, information on their gender policies and practices. In the United States,[47] regulated entities are expected to disclose annually their D&I strategic plan, metrics to measure success in achieving diversity of their workforce and procurement

[45] See European Union (2013b) and European Banking Authority (2016).

[46] See Financial Reporting Council (2016). Financial Conduct Authority (2022) sets out requirements for listed firms in the United Kingdom to disclose information in their annual financial statements relating to the following targets: at least 40% of the individuals on its board of directors should be women; at least one of the specified senior positions (chair, chief executive officer etc) on its board of directors should be a woman. Firms are required to explain when those targets are not met.

[47] See Office of the Comptroller of the Currency et al (2015).

activities, as well as current and future employment and procurement opportunities. Firms should also undertake self-assessments at least annually on their diversity policies and practices.

40. **Publicly-listed financial institutions are subject to listing rules that include disclosure of diversity-related policies.** The Hong Kong Stock Exchange,[48] requires securities issuers (including banks) to disclose their policy on board diversity, including any measurable objectives and progress towards achieving those objectives. Specifically, listed firms are required to disclose numerical targets and timelines for achieving gender diversity within the board and in their workforce. In addition, listed firms are subject to ESG disclosure rules that include disclosure of information relating to compensation and dismissal, recruitment and promotion, working hours, rest periods, equal opportunity, diversity, anti-discrimination and other benefits and welfare.[49] The Johannesburg Stock Exchange,[50] requires listed companies to disclose in their annual reports how the board of directors or the nomination committee have considered and applied their policy on gender and racial diversity in the nomination and appointment of directors. Progress in meeting any voluntary gender or racial targets must also be disclosed.

41. **Disclosure of the appointment of members of the board of directors is important to support the overarching D&I objective of diversity of thought for better decision-making.** Basel Committee on Banking Supervision (2015) specifies that, at a minimum, banks should annually disclose information on the selection of members of the board. The European Union[51] has adopted this principle and, in addition, requires banking groups to disclose[52] the gender and duration of appointment of each member of the management body of each group entity. Central Bank of Argentina (2020a) recommends reporting of the percentage of gender representation in the board of directors, the audit body, senior management and the firm overall. In addition, firms are expected to disclose the selection process of board members, qualifications and gender parity criteria. The application of these recommendations considers the principle of proportionality based on the size, complexity, ownership structure, economic importance and risk profile of a financial institution.

42. **It is not common for regulators to define specific D&I metrics that firms must disclose to track progress.** Yet, most regulators acknowledge that disclosure of such metrics is important to sustain momentum for firms to make progress in achieving their D&I objectives. Public disclosure of data allows firms to target their D&I interventions and assess whether these are working as intended. Voluntary D&I disclosure can leave firms complacent, thus perpetuating the lack of progress. However, it may not be necessary to specify the metrics to disclose because the policy intent in this regard is not to obtain standardised, comparable information. Rather, it is to motivate firms to make progress to improve their D&I practices. World Economic Forum (2020a) provides examples of some D&I metrics that firms can disclose including the: (i) percentage of employees per employee category, by age group, gender and other indicators of diversity (eg ethnicity) and (ii) ratio of the basic salary and remuneration for women to men, and for minor to major ethnic groups. Financial Conduct Authority (2022) specifies two tables with specific metrics for public disclosure by listed financial institutions covering gender and ethnicity separately.

43. **In some jurisdictions, D&I disclosures are required by non-financial authorities.** For example, in South Africa, all employers (including financial institutions) with over 50 employees are required to submit employment equity plans to the Department of Labour. These statistics are collated and are used to monitor progress made on employment equity in various sectors in South Africa. South African insurers are required to submit transformation plans to the Prudential Authority, in line with the

[48] See The Stock Exchange of Hong Kong Limited (2021).

[49] See The Stock Exchange of Hong Kong Limited (2019).

[50] See Johannesburg Stock Exchange (2019).

[51] See European Union (2013b).

[52] See European Banking Authority (2021a).

Broad-based Black Economic Empowerment Act, outlining how they are performing against the *Financial sector charter* targets and their own employment equity plans. In addition to recommendations to report to federal financial regulatory authorities, firms in the United States are also subject to requirements issued by the Equal Employment Opportunity Commission and the Office of Federal Contract Compliance Programs.

Section 7 – Proportionate application of D&I regulatory approaches

44. **Like most prudential requirements, regulatory approaches on D&I allow firms to apply the principle of proportionality in tailoring application of the rules to the specific nature and risk profile of individual firms.** For example, European Banking Authority and European Securities and Markets Authority (2021) requires only "significant institutions" to have a gender target for the management body and to set out a deadline to achieve the target. Only such firms must conduct an annual review of the composition of their management bodies, diversity targets and objectives. Firms with fewer than five members of their management body can express the target qualitatively. The general proportionality criteria in European Union (2013a,b) that distinguish between significant and other institutions are also applicable to D&I requirements. In the United States, the joint standards[53] mainly apply to regulated firms with more than 100 employees. Micro-enterprises in South Africa, defined as entities with annual revenue of less than ZAR 10 million, are exempted from the Broad-based Black Economic Empowerment Act. In the United Kingdom, regulators are considering how any future policies on D&I could be implemented in a proportionate way. In addition to the size and complexity of firms, other criteria that may be considered include business volume and number of employees. Central Bank of Argentina (2020a) tailors D&I disclosure requirements based on a firm's size, complexity, ownership structure, economic importance and risk profile. Requirements for listed and unlisted firms are also different.

45. **Achieving D&I is more challenging for smaller firms, for example, firms with two or three board members.** Financial authorities in the United States recognise that smaller firms or firms located in remote areas may face challenges in implementing the standards.[54] Smaller firms may be constrained in terms of using the personal data of their staff members to advance D&I objectives as their smaller data set may more easily reveal personally identifiable traits. Larger firms may have the advantage of more resources to employ dedicated personnel to specifically deal with D&I issues, such as the appointment of a dedicated D&I officer. Regulatory frameworks seeking to introduce explicit D&I guidance or requirements may consider adopting a proportionate approach, given these practical implementation challenges and associated costs.

Section 8 – Concluding remarks

46. **Even with the small sample of jurisdictions covered in this paper, we observed different areas of focus or aspects of emphasis in the different D&I regulatory approaches.** These differences in focus can be attributed to a jurisdiction's history, culture and social disposition. Certain jurisdictions are primarily concerned with treating ethnic minorities more fairly, while others are mainly concerned with the accessibility of banking services by disabled customers. As a result, regulatory issuances on D&I tend to cover specific aspects relating to corporate governance, disclosure or conduct of business that are driven by these jurisdiction-specific considerations. Typically, regulatory coverage of D&I aspects relate only to

[53] See Office of the Comptroller of the Currency et al (2015).

[54] Visco (2021) outlined how smaller firms might need more time to close the gender gap.

corporate governance, specifically to the gender diversity of board members. It might be worthwhile for jurisdictions to consolidate these disparate regulatory issuances in order to have a coherent regulatory framework covering all D&I aspects that matter for financial institutions.

47. **While there has been noticeable progress in improving firms' D&I, especially in the area of gender, the pace needs to accelerate and the scope broadened to other dimensions.** One way to accelerate progress is to consider requiring mandatory disclosure and regular supervisory reporting of D&I metrics. D&I data is important to provide objective evidence of the true picture at a firm. There are low hanging fruit that can make a significant difference, for example disclosure of gender-related metrics to accelerate gender diversity. Efforts should be made to consider other D&I dimensions beyond gender, which are likely to be pursued by certain regulatory authorities. It is expected that regulatory frameworks will expand to require banks to be more inclusive of underrepresented population segments, for example transgender people, in the provision of financial services. Authorities could also consider setting the duration of board members' appointments to lower the average age of boards, thus contributing to stimulating debate in decision-making processes and avoiding groupthink and concentrations of power.

48. **D&I regulatory development is a marathon, not a sprint.** There is a continuous cycle of learning, improvement and enhancement to integrate D&I issues into regulatory frameworks. As part of this process, close engagement with supervised entities will be crucial to ascertain the "implementability" of any new policies. Insights gained from ongoing supervisory activities should flow through to enhancing policy and supervisory expectations. It is important to recognise and tackle longstanding cultural and historical norms that are inhibiting progress in D&I. Certain D&I dimensions, such as matters relating to LGBTQI+ communities, may confront cultural taboos. In certain regions, firms may prefer longer-serving employees and typically this means men as women tend to retire earlier. These issues go beyond the regulatory remit but must be addressed more fundamentally at the broader societal level before any meaningful change can be introduced in the financial sector. In addition, institutions can consider their own roles in building up a diverse pipeline and developing an inclusive environment – both internally and towards their customer base.

49. **Financial regulators can lead by example in demonstrating the importance of D&I.** As financial regulators are typically held in high regard, they can drive positive change in firms even indirectly through various actions such as having senior officials speak about D&I issues or participating in D&I events to show support. Establishing and publishing their own D&I policies could also send a strong signal about their commitment to D&I in support of broader, sound governance objectives. This may translate into internal regulatory processes such as using inclusive language in issuances.

50. **International standards and guidance on D&I might be helpful to prompt progress in improving the quality of corporate governance of regulated financial institutions, thus enhancing the safety and soundness of firms and of the financial sector.** A consistent or harmonised international approach on D&I regulation can improve the operational efficiencies of cross-border or internationally active firms in particular. Nevertheless, any such global standards should cast D&I as one of several important components of banks' corporate governance and culture. The broader prudential objectives of preserving the safety and soundness of banks should be borne in mind.

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