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TRAINING THAT MAKES A DIFFERENCE

CONCERNING CONDUCT: QUARTERLY CASES

Recent cases concerning culture and conduct ISSUE 2 • Q1 2020

Coronavirus and conduct.
The coronavirus pandemic has become the dominant feature globally as the first quarter of 2020 comes to an end. It means that thousands of financial services employees are doing their best to keep everything running as near to normal as they can, from their homes. Here are a few thoughts about the conduct issues that arise:

- Home working brings challenges in areas like monitoring others, providing support and keeping projects on track. This could result in an increased likelihood for misconduct. At the very least, firms might want to reinforce that as far as possible everything that was necessary, like suspicion reporting, still is.
- The senior management team will be acutely aware of the business impact as asset prices collapse and gyrate. Although cash flow and financial resources will need ongoing review, it is vital that the senior management team does not forget the need to keep spirits up across the whole firm. Regular communication is key.
- Conduct issues could emerge around the various government support mechanisms, like the UK's Coronavirus Job Retention Scheme. It enables staff to be 'furloughed' and appears to require that such staff are effectively mothballed as far as work duties are concerned. What would be the impact if a firm called on them for help during the furloughed period? Would that invalidate the claim? Such unanswered details suggest firms should be very careful about the decisions they take.

JANUARY 2020

EY acts on conduct failings with "belonging" workshops.
EY is sending staff at its transactions advisory services division to special "belonging" workshops. In order to address concerns over bullying, discrimination and sexism staff have been urged to attend sessions that will enable them "to share and learn from each other's experience of belonging". The unit has seen a transgender employee leave citing discrimination, a partner penalised for offensive sexual remarks and an alleged bully being promoted to a top international role.

Goldman Sachs makes qualified diversity pledge.
Goldman Sachs became the first Wall Street bank to declare that it will not take companies public in the US and Europe unless the board includes at least one "diverse" candidate. The hope is to increase it to two in 2021. The commitment does not include Asia.

Ghosn escapes from Japan.
Former Nissan boss Carlos Ghosn escaped from Japan where he was on bail facing charges of financial misconduct. Rumoured to have been hidden inside a musical instrument box, he travelled on a private jet to his home country of Lebanon after a brief stopover in Turkey. Lebanon does not have an extradition agreement with Japan. Mr Ghosn claims there was illegal collusion to bring him down between Nissan and the Japanese government and that he will clear his name.

FEBRUARY 2020

Citigroup suspends bond trader over alleged food theft.
Citigroup's head of high yield bond trading for Europe, the Middle East and Africa has been suspended, allegedly for stealing food from the staff canteen in Canary Wharf, London.

+44 20 7638 9830 info@cclacademy.co.uk **www.cclacademy.co.uk**

FCA to investigate Barclays chief executive.
The UK regulator, the Financial Conduct Authority (FCA) is to investigate Barclays CEO Jes Staley about his links with disgraced US financier Jeffrey Epstein. The investigation comes after the FCA was provided with a cache of emails from JPMorgan between Mr Staley (then an executive at JPMorgan) and Mr Epstein. The investigation is focused on whether Mr Staley's disclosure of a professional association with Mr Epstein was, in fact, more friendly.

Deutsche probing Saudi wealth management bribes.
Deutsche Bank is internally looking at an allegation that two former staff members paid $1.1m to the wife of a senior Saudi royal's financial advisor to obtain wealth management business. The activities happened in 2011 and 2012 and have been reported to criminal prosecutors.

Thiam ousted to protect Credit Suisse's reputation.
The chief executive at Credit Suisse – Tidjane Thiam – resigned under pressure from the board. Mr Thiam had been in charge when two spying operations were undertaken by the bank. The first followed ex-wealth management head Iqbal Khan who defected to UBS, and the second followed Peter Goerke, the bank's former head of HR. The ousting was an attempt to protect the reputation of the Swiss bank.

MARCH 2020

BP told to reinstate and compensate worker involved in Facebook post.
Oil giant BP was ordered to reinstate and compensate a worker in Australia that had been fired for a posting on Facebook. The posting, to a private Facebook group, was based on a clip from a film about Hitler's last days and related it to pay talks between BP and the Australian Workers' Union. BP fired the individual alleging that the posting was in breach of its Code of Conduct. The individual maintained the posting was an attempt at humour to boost staff morale. The Australian Fair Work Commission ruled in favour of the individual.

Senior UK civil servant resigns accusing Home Secretary of bullying.
Sir Philip Rutnam, the top civil servant in the UK's Home Office, resigned due to alleged bullying and lying by Priti Patel – the home secretary. Amongst the allegations were 'shouting and swearing at officials', 'belittling' people, 'making unreasonable and repeated demands', and 'behaviour that created fear'. Priti Patel will face an internal probe into the allegations.

Weinstein sentenced to twenty-three years in jail.
The man who ignited the #MeToo movement around 3 years ago is now facing an effective life sentence. Harvey Weinstein, the sixty-seven-year-old disgraced movie producer was sentenced to twenty-three years in prison for sex crimes including rape. The sentence related to two charges for which he was found guilty – a twenty-year sentence for a criminal sexual act and a three-year sentence for rape charges.

Impersonal codes of conduct could be best.
Academics in the US produced some interesting research that linked the use of personal language in company's codes of conduct ("we", "our", "us") to increases in misconduct. The reason is that the personal language makes people feel the organisation is more tolerant and forgiving. So, perhaps firms should consider writing or rewriting codes of conduct to use impersonal language ("employees", "members") rather than personal language to reduce the likelihood of misconduct.