

Financial Conduct Authority proposals for disclosure relating to representation on boards

The FAC opened a consultation in July 2021 [as described here](#). It closed on 22 October.

We sent our response, below, to the consultation reply inbox and to the FCA chief executive [Nikhil Rathi](#).

The FCA initiative to require disclosure of representation by “gender” and ethnicity is a good and welcome initiative. However, it is a serious error to suggest that the targets should cover anyone who self-identifies as a woman. The relevant protected characteristic is sex, which refers to sex registered at birth. (A few thousand people on the UK have changed their sex registration via a GRC so their birth certificate is still the relevant document.). Gender is not a protected characteristic. The protected characteristic of gender reassignment permits self-identification and prohibits discrimination against those who do so. But it does not include being counted as the other sex for any data purposes, unless someone has a GRC and a new birth certificate which gives them a legal sex to match their self-identified “gender”. (See the high court ruling in the case of Fair Play For Women vs the Office for National Statistics, for example.)

The consultation paper refers to protected characteristics, and cites the FCA’s public sector equality duty to advance equality of opportunity, and to foster good relations etc. That is a clear indication that the intention is to reveal representation of groups as cited in the EA - specifically, females and ethnic minorities. The paper refers to the possible extension of this reporting to other protected characteristics in time. It is therefore fundamental that the first data requirements reflect the protected characteristics as in the EA and not some arbitrary definition or confused mix of characteristics. If the FCA requires the disclosure of data on representation of trans-identifying people, to reflect the protected characteristic of gender reassignment, it should add this as a third field of data alongside sex and ethnicity.

Fair Play For Women

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