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Perceptions of insurance business culture from London Market practitioners

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The ramifications of the findings in the 'Reflections Caught' report

Over the last few years, the London Market has come under regulatory scrutiny in various respects.

Regulators have identified evidence of non-financial misconduct (e.g. bullying, harassment) and conduct risk (i.e. the risk of breaching regulatory rules more generally) as key cultural touchpoints which might be regarded at best as exceptions to the general run, or at worst as exemplars of a culture that overall is far removed from that which regulators are looking to instil in financial services.

Background

Both from within and without, there have been substantial calls to change the culture of the marketplace. In September 2019, for example, Lloyd's of London published plans to change the culture within its marketplace following its findings from a survey of Lloyd's market practitioners that:

- "one in five … do not believe people have equal opportunities regardless of gender"
- "8% … had witnessed sexual harassment over the previous [year], however just 45% said they would feel comfortable raising a concern"
- "24% had observed excessive consumption of alcohol during the past [year]"
- "22% … have seen people in their organisation turn a blind eye to inappropriate behaviour."

A November 2019 'Dear CEO' letter from the Prudential Regulation Authority ("PRA") referred to "Recent public reports [of] sexual harassment and bullying" and stated that these:

- [show] that ["London market"] firms have…to improve aspects of corporate culture and individual behaviour…[and]…
- raise broader questions about whether firms are promoting a culture where staff feel able to speak up about poor practices or unidentified risks within their organisations…"

In December 2019 the PRA imposed "special requirements" on Lloyd's as to its whistleblowing systems and controls following Lloyd's' failure to maintain a particular whistleblowing "helpline".

In January 2020 the Financial Conduct Authority ("**FCA**") published a Dear CEO letter directed in particular at:

- "insurers…and…insurance intermediaries" about "the issue of non-financial misconduct, [which] continues to be prevalent…"; and
- "recent, publicised incidents of non-financial misconduct in the wholesale general insurance sector" without specifying what these are - from other references in the letter, it seems inevitable that the FCA is including the Lloyd's publication above.

Most recently, the FCA's November 2020 letter described conduct failings in the London Market as "often widespread and embedded cultural issues [requiring] considerable and consistent commitment to address at all levels of [an] organisation."

Views ‘from the coal face’

Given that London and UK insurance market businesses are a key client base for us, we commissioned surveys to examine the healthiness of London Market culture, focusing on how practitioners perceive the practical realties of the cultural touchpoints noted by regulators:

- whether HR discipline is enforced in relation to non-financial misconduct and other conduct risk;
- how and why firms choose to address non-financial misconduct and conduct risk in the way they have;
- what changes had arisen in relation to the above factors during the ‘remote working’ phase of the Covid crisis in the UK.

In assessing the state of the market on a systematic basis, we hoped to identify how we might help firms restore or enhance any aspect of their culture that might need it.

Perception – an indicator of culture

The London Market is highly dynamic in terms of its dealings between its constituent parts, such as in the risk-placing process, where multiple brokers and insurers may interact, or in the operations of distribution chains involving multiple intermediaries. Also, it is common for practitioners to move employment between insurers, intermediaries and/or other market bodies (such as Lloyd’s).

In order to gain a broader sense of the culture within this dynamic environment, it is appropriate, if not necessary, to elicit respondents’ views on firms that are not just respondents’ employers (“Own Firms”), but also former employers and third party suppliers, counterparties and competitors of those Own Firms (“Other Firms”) .

A survey as to any market’s culture is highly likely to involve both direct experiences of individuals, and their indirect knowledge (in the form of hearsay or otherwise). An individual’s perception or belief about the way one or more colleagues or third parties have reacted or will react to a particular situation or piece of information is indicative of the culture of a working environment, and may indeed be a factor in giving expression to or shaping that culture (see FCA Discussion Paper 18/2: Transforming Culture in Financial Services – in particular the essays by Cottrell and Zimbler).

In inquiring into perceptions, potential key risks included that respondents would consciously or unconsciously be that they are more generous in their views of their Own Firms (possibly because of an atavistic fear that, despite all controls around anonymity, respondents might somehow be identified by employers), and/or harsher in their views of Other Firms.

Ultimately, the only realistic way to address any potential bias within individual responses was for the sample base as a whole to be sufficiently representative of insurance business practitioners in the London Market.

Key results

Respondents felt that the overwhelming majority of London Market firms were dealing with, and would deal with, non-financial misconduct and conduct risk in accordance with regulatory expectations. In fact, respondents recognised an increase in efforts by the vast majority of Own Firms, (and, to a lesser extent, Other Firms) to prevent or deter non-financial misconduct.

However, the majority of respondents perceived that remote working during the pandemic had resulted in an increased likelihood of individual practitioners committing non-financial misconduct. This finding implies a perception that London Market firms rely on the collective effort of businesses – such as via the ‘3 lines of defence’ model – to keep practitioners on the ‘straight and narrow’.

An unavoidable feature of responses was a perception that a notable minority of firms are falling short of regulators’ expectations. For instance, nearly a third of respondents perceived that Other Firms would not pursue appropriate HR discipline against a manager committing non-financial misconduct because those firms would value managers’ commercial effectiveness more than the risk and effects of such misconduct.

Similarly, less than a quarter of respondents perceived that firms would inevitably proceed to discipline a manager who was effective from a commercial perspective but had incurred conduct risk. This suggests that practitioners regard firms as accepting conduct risk as one worth taking to achieve commercial success.

The majority of respondents perceived that firms would seek to prevent both non-financial misconduct and conduct risk for financial reasons (the reduction or prevention of exposure to such risk resulting in better financial performance) as distinct from the detriment caused by adverse legal or regulatory action. Few practitioners perceived that firms excluded financial outcomes from their approach.

This suggests that practitioners do not see firms as giving a priority to ethical values for their own sake. If so, this could make for a more challenging approach in firms' ability and willingness to align with broader regulatory initiatives on environmental, social and governance ("**ESG**") responsibility and sustainability initiatives.

Overall, respondents perceived that their Own Firms had higher standards than Other Firms when it comes to dealing with non-financial misconduct and conduct risk. This indicates that practitioners have a lower opinion of the London Market more broadly than of their Own Firms, and therefore that mistrust of others' conduct is a notable feature of London Market culture overall.

The way forward: Reflect, Evaluate, Cohere, Communicate, Evolve

There is a five-stage process firms should follow, while being mindful that in seeking to consider risks (even if nothing more) there is the potential to generate material that could be used against them in other circumstances: the appropriate use of legal privilege is vital.

- Firms should reflect on whether the survey's findings ring true or can be fully discounted. If the FCA were to challenge a firm on the quality and quantity of its evidence as to its culture, how persuasive and credible could the firm's response be?
- Risks indicated by or relating to evidence as to culture should be evaluated on a focused basis to produce effective data.
- Ramifications of that data should be addressed on a comprehensive and coherent basis across a firm's systems and controls (e.g. remuneration, promotion, HR discipline, whistleblowing) which embody and manifest its culture.
- Any firm seeking to make changes needs to communicate how and why it intends to do so. There cannot be a gap between what a firm says about misconduct and what it does: the words must 'resonate' with employees in terms of the actuality of their day-to-day activity, and not simply be a proclamation of carefully crafted values which a firm might feel employees, customers, investors or regulators would expect.
- A firm must recognise that the management of culture is not a one-off exercise, but an evolving dynamic that needs to respond to a changing environment. So long as the leadership and culture of a firm have both ESG - and commercial - sustainability and responsibility as their central purpose, its culture will be healthy.

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