

## EMPLOYMENT & INCENTIVES

### Whistleblowing in Financial Services

Specific whistleblowing rules apply to financial services firms<sup>1</sup>. The aim of the rules is to promote a culture in which concerns can be raised without fear of reprisals. The rules work in conjunction with the SMCR and impact both policies and procedures.

#### To ensure compliance, firms must:

##### Whistleblowing Champion

- > Appoint a whistleblower's champion who will be responsible for whistleblowing compliance.
- > The champion must:
  - > be a non-executive director subject to the SMCR;
  - > oversee the effectiveness of whistleblowing policies and procedures; and
  - > oversee the preparation of a report to the board at least once a year on the operation of internal whistleblowing policies and procedures.

##### FCA and PRA Whistleblowing Services

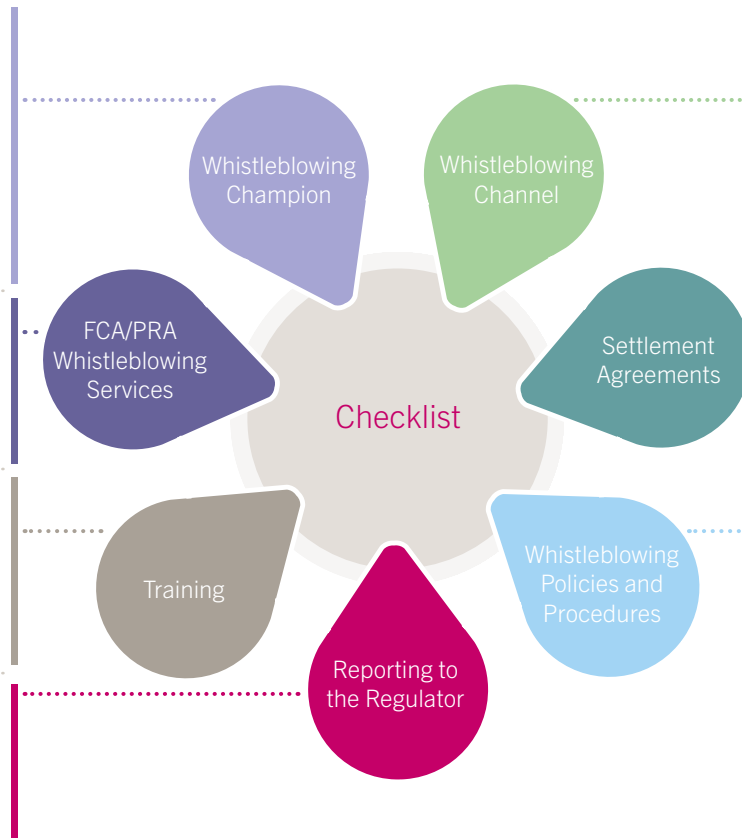
- > Notify staff of the regulators' whistleblowing services.
- > Inform staff that they are entitled to approach the regulators directly to report a concern.
- > Not impose an obligation to raise concerns via the internal whistleblowing channel, prior to contacting the regulator.

##### Training

- > Provide bespoke training to employees and managers on the firm's whistleblowing arrangements, to include examples of issues that might prompt whistleblowing and how to recognise whistleblowing.
- > Provide bespoke training to employees responsible for operating whistleblowing arrangements, to include assessing significance of concerns and protecting whistleblower confidentiality.

##### Reporting to the Regulator

- > Disclose any information of which the regulator would reasonably expect notice.
- > Report promptly to the regulator about whistleblowing claims brought before an employment tribunal which were contested and lost.



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##### Whistleblowing Channel

- > Establish and maintain an independent whistleblowing channel.
- > Publicise existence of the channel to staff.
- > Ensure anonymous and confidential disclosures can be made via the channel.
- > Ensure that the channel is open to all issues (not limited to matters capable of being protected under the Public Interest Disclosure Act)<sup>2</sup> and all people wishing to make a disclosure (not just workers).
- > Allow disclosures to be made via a range of methods in addition to the whistleblowing channel.

##### Settlement Agreements

- > Not use wording that could deter staff from whistleblowing.
- > Include an express statement that the employee is not prevented from making a protected disclosure.
- > Not include a warranty to confirm that the employee has not made a protected disclosure and does not know of information which could lead to them making a protected disclosure.

##### Whistleblowing Policies and Procedures

- > Prepare and maintain a whistleblowing policy which must be available to all UK employees.
- > Ensure appropriate and effective assessment and escalation (including to the regulator) of whistleblowing disclosures.
- > Take steps to ensure that no employee of the firm subjects the whistleblower to a detriment.
- > Provide feedback to whistleblowers, where feasible and appropriate.
- > Maintain records of disclosures made by whistleblowers, how they were handled and the outcome.

#### For more information, please contact:

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<sup>1</sup> The rules apply to deposit takers with assets greater than £250 million, PRA-designated investment firms, insurers subject to the Solvency II Directive, and the Society of Lloyd's and managing agents.

<sup>2</sup> Disclosures which qualify for protection under PIDA/Employment Rights Act 1996 include information tending to show commission of a criminal offence, failure to comply with a legal obligation, occurrence of a miscarriage of justice, danger to health and safety, damage to the environment, deliberate concealment of any of the aforementioned acts.