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Elizabeth Richards
Financial Conduct Authority
25 The North Colonnade
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20 May 2015

Dear Elizabeth,

Response to the PRA/FCA's Consultation on Whistleblowing in deposit-takers, PRA-designated investment firms and insurers; FCA CP15/4 and PRA CP6/15

We have pleasure in submitting the enclosed formal response from the Chartered Institute for Securities & Investment (CISI) to this Consultation Paper. General comments are included in this letter, and answers to your specific questions are detailed in the Appendix.

The CISI is an established awarding body for qualifications in financial services, as well as the largest and most widely respected professional body for those working in the securities and investment industry in the UK and in a growing number of major financial centres around the world. Formed in 1992 by London Stock Exchange practitioners, we now have more than 40,000 members in 110 countries, and in the past year we set almost 37,000 examinations in 74 countries, covering a range of vocational qualifications. The CISI is a registered charity and has the following Charitable Objectives:

- To promote, for the public benefit, the advancement and dissemination of knowledge in the field of securities and investments
- To develop high ethical standards for practitioners in securities and investments and to promote such standards in the UK and overseas
- To act as an authoritative body for the purpose of consultation and research in matters of education or public interest concerning investment in securities

Helping employees to raise concerns is particularly important to the CISI, and in September 2014 we launched a Speak Up initiative to give individuals the tools and confidence needed to speak up, and to encourage firms to adopt an open culture where concerns are raised quickly, allowing problems to be addressed at an early stage. We therefore welcome the proposals contained within the Consultation Paper, particularly in regards to raising awareness of whistleblowing within financial services and efforts to ensure workers are supported and encouraged when blowing the whistle.

The main points of our response are summarised as follows:

- **Protection of whistleblowers is paramount.** To ensure that whistleblowers receive the best support and are treated well by their colleagues and managers, consideration must be given by firms to whistleblower protection laws and cultural attitudes to whistleblowing when drafting a whistleblowing policy – especially for firms with branches located overseas. Policies should be clear and easy to understand, and whistleblowing processes should be made as accessible as possible.
- The CISI is concerned that there are **discrepancies between recommendations made by the FCA and PRA, and the current protections currently afforded to whistleblowers under UK law.** Specifically, the recommendation to extend protections for whistleblowers to cover all types of disclosure - not just those related to regulatory matters or protected disclosures under PIDA, and the wording of the recommended passage to be included in settlement agreements and employment contracts, could lead to whistleblowers being afforded protection by the regulator, but without the protection of the law. If these cases are put before an employment tribunal, the tribunal would likely find in favour of the employer rather than the whistleblower. These distinctions need to be made clear so as not to mislead whistleblowers/would-be whistleblowers and leave them without protection under UK law.
- The CISI is also concerned that if firms are only required to inform the FCA of cases where an employment tribunal finds in favour of a whistleblower, **firms will be driven to settle the case before it is referred to a tribunal.** Instead, the CISI believes the FCA should require firms to inform it of cases where an employment tribunal finds in favour of a whistleblower or in favour of the employer or where a firm settles a whistleblowing case through a financial settlement before the case reaches tribunal.
- Finally, **the role and responsibilities of the whistleblowers champion needs to be clarified, and any conflicts of interest inherent in the role must be addressed.** The role of the whistleblowers champion must not over-formalise any existing informal methods of raising concerns which already take place within firms, and should not dilute the responsibility of every manager to listen and deal with concerns which are brought to them. To avoid conflicts of interest, it may be more appropriate for the audit function to prepare the annual whistleblowing report for the firm's senior governance committee, rather than the whistleblowers champion.

On behalf of the sector we would like to express our thanks to the FCA and PRA for understanding the importance of whistleblowing and whistleblower protection. We are happy to clarify and expand on any of the points that have been raised in this letter or in our formal response to the consultation.

Yours sincerely,


Simon Culhane, Chartered FCSI
Chief Executive