

LESS THAN 1% OF INTERMEDIARIES REPORTED CONDUCT RULE BREACHES IN FIRST YEAR OF SM&CR

12 April 2021

Only 15 conduct rule breaches were reported by insurance brokers or intermediaries last year, according to new information released by the FCA in response to a freedom of information (FOI) request by Sicsic Advisory.

Over 6,000 solo-regulated insurance intermediaries must inform the FCA each year of any conduct breaches by certified staff under specific reporting requirements.

The FOI disclosure revealed that only ten firms reported breaches between 9 December 2019 and 31 August 2020, the first period of implementation. Those firms reported a total of ten individuals who had breached conduct rules, with the majority of breaches reported against integrity, followed by due skill, care and diligence.

Meanwhile the disclosure showed there were five reports on senior managers under separate reporting requirements.

Sicsic Advisory senior consultant Nindy Mellett says: "Fifteen reports from the entire GI intermediaries' population feels very low and indicates that some firms may not have robust processes in place to capture and report conduct issues."

"Firms may be worried that their reporting would be out of step with other firms who have similar issues but might not be reporting them as a breach. The reality is the FCA is more likely to step in and investigate firms which report a lower number of breaches than would be expected for an organisation of its size, and it will continue to focus on conduct if reporting remains this low.

"This possible reporting gap we've spotted is very much a warning for firms to get serious about SM&CR. Now is the time to act."

Culture change

Since 31 March 2021 the scope of SM&CR has been extended for solo-regulated firms to include conduct training and breach reporting for all employees.

"This is not just a case of a two-hour workshop or online course on SM&CR for staff, and expecting the job to be done," Nindy continues. "All intermediaries need to take real ownership of SM&CR and embed individual accountability into their culture.

"Getting the reporting right is part of that process. Firms need to be asking themselves if they're confident that employees understand how conduct rules apply to them in their individual roles, why the rules are so

important to the organisation, and what to do about conduct breaches they're responsible for - or that they spot in the course of their work.

"Then firms should be asking themselves if they're really confident they're passing on those reports in line with regulatory expectations."

SM&CR breach consequences

Based on the FOI data, there have been no appeals on the reported breaches so far.

Nindy points out that although that could mean firms are conducting robust investigations and all parties agree with the outcome, it could also be a clue that only the black and white cases are being processed.

"If a conduct breach is complicated," she explains, "that doesn't mean it should be brushed under the carpet. In fact, that's exactly when the regulations come into their own. Firms need transparent processes to manage these cases, and they need to be using the reporting mechanism correctly, and consistently."

Also, while there is only one insurance broker or intermediary Senior Manager currently under formal investigation by the FCA, with the regime extending to cover nearly all staff, this is just the tip of the iceberg.

To conclude, Nindy observes: "We can expect more enforcement from the regulator as they underline their initial intent of making conduct rules the minimum behaviours standard across the industry."

"If firms aren't getting this right now, the issues will be exacerbated now the conduct rules have been extended to cover nearly all employees."

ENDS

About Sicsic Advisory

Sicsic Advisory is a London based boutique consultancy, focusing on financial services risk and regulation. The team has a unique combination of expertise gained through direct industry experience, consulting roles and regulatory supervision leadership role in the UK insurance market.

Sicsic Advisory assists Boards and Senior Management on financial soundness, operational resilience and culture and conduct with the objective to deliver sustainable business success and satisfy conduct and prudential regulatory requirements.

For more information visit: <https://www.sicsicadvisory.com>

Notes to editors

Reference: FOI8088

We have processed your email in line with the provisions of the Freedom of Information Act 2000 (FOIA) and we have answered each question in turn.

1. Conduct rules reporting – certification staff and Directors who are not Senior Management Functions (SMF).

Based on the data from REP 008 covering the period 9th December 2019 to 31st August 2020:

I. How many firms have reported conduct rules breaches?

10 firms reported Conduct Rule breaches by Certification Staff and Directors who are not SMFs.

II. How many individuals have breached conduct rules?

10 Certification Staff and Directors who are not SMFs were reported as having breached Conduct Rules

III. Please provide a breakdown of rule breaches as a percentage against each individual conduct rule

| Rules | Percentage |
|--|------------|
| Rule 1 - You must act with integrity | 43.75% |
| Rule 2 - You must act with due skill, care and diligence | 31.25% |
| Rule 3 - You must be open and cooperative with the FCA, the PRA and other regulators | 0% |
| Rule 4 - You must pay due regard to the interests of customers and treat them fairly | 6.25% |
| Rule 5 - You must observe proper standards of market conduct. | 18.75% |

IV. How many breaches are being appealed?

We can confirm that no breaches are being appealed.

V. How many firms haven't submitted REP 008?

Lloyd's & London market intermediaries (including managing general agents) and (iii) Price Comparison Websites (PCW's) portfolios firms did not submit REP 008 forms. In Personal and Commercial Lines insurance intermediaries 187 firms didn't submit REP 008 forms.

2. *Conduct rules reporting – SMF’s.*

In the period 1st January 2020 to 31st December 2020:

I. *How many reports of Senior Manger Conduct Rule breaches have you received?*

We have received 5 reports of Senior Managers breaching the Conduct Rules.

II. *Of that number, please can you breakdown the numbers by their respective SMF e.g. SMF 1, 2, 3.*

The reports received relate to 4 individuals holding SMF3 and 1 individual holding SMF3 and SMF16.

III. *Of that number, what is the split between Form C and Form D notifications?*

| FORM | Amounts |
|--------|---------|
| FORM C | 4 |
| FORM D | 1 |

IV. *Of that number, what is the split between individual and Senior Management Conduct Rules?*

Out of the 5 reports received, 61% relate to breaches of individual Conduct Rules and 39% to breaches of Senior Manager Conduct Rules.

3. *Enforcement.*

How many enforcement investigations focussing on individuals does the FCA have open into General Insurance and Protection intermediary firms by:

I. *Individuals who hold Senior Management Functions. Please can you breakdown the numbers by their respective SMF*

Individuals who fall within the Certification Regime. Can you provide a brief description of the nature of these investigations?

The FCA is currently investigating one individual who holds a Senior Management Function in the General Insurance and Protection Intermediary Sector. The nature of this investigation relates to potential breaches of retail conduct.

We hold the information on their specific SMF function, however we are unable to disclose it to you, as we believe their disclosure would breach the requirements of the General Data Protection

Regulations (“GDPR”) including the data protection principles of Article 5 and the Data Protection Act 2018 (“DPA”). This is because there is a risk that revealing such a low figure could lead to the identification of the individual concerned. For this reason, we have concluded that this information is exempt from disclosure under section 40 (Personal data) of FOIA. A more detailed explanation of why this exemption applies can be seen in Annex A.

We currently do not have any investigations regarding individuals who fall into the Certification Regime in General Insurance and Protection Intermediary sector.