

# Quarterly Status Report – CalPERS Compliance Activity

Second Quarter FY 2016-17

Presented to  
Risk and Audit Committee  
February 13, 2017

# Purpose

Provide the Risk and Audit Committee with compliance monitoring and oversight analytics to aid in fulfilling their role in overseeing key compliance and ethics activities.

# Summary

Slide	Functional Area	Description	Results in Brief
4	<b>Conflict of Interest Code - Assuming/Leaving Office Statements</b>	<ul style="list-style-type: none"> <li>Report on the filing status of Statements of Economic Interests - Form 700 mandated to be filed upon assuming or leaving office by CalPERS Conflict of Interest Code</li> </ul>	<ul style="list-style-type: none"> <li>27 Assuming Office forms filed</li> <li>32 Leaving Office forms filed</li> <li>9 Past Due Assuming Office/Leaving Office Statements outstanding</li> </ul>
5 - 8	<b>Personal Trading Monitoring</b>	<ul style="list-style-type: none"> <li>Transactions and violations to CalPERS Personal Trading Regulations captured within Schwab Compliance Technologies</li> </ul>	<ul style="list-style-type: none"> <li>9,273 total transactions</li> <li>12 violations identified</li> </ul>
9 – 13	<b>Ethics Helpline</b>	<ul style="list-style-type: none"> <li>Complaints or reports received through CalPERS Ethics Helpline</li> </ul>	<ul style="list-style-type: none"> <li>38 complaints received during Q2 2016-17</li> <li>22 complaints closed during Q2 2016-17</li> <li>34 complaints currently open and under investigation</li> </ul>
14	<b>Policy Management</b>	<ul style="list-style-type: none"> <li>Management and facilitation of Board Approved policies.</li> </ul>	<ul style="list-style-type: none"> <li>1 policy retired</li> </ul>

## Conflict of Interest Code – Form 700 Staff Filings

Statement of Economic Interests (Form 700) are public disclosures that must be filed annually, upon assuming office and upon leaving office. These statements are due within 30 days of assuming or leaving office and are past due if not filed within this timeframe.

Assuming / Leaving Office Statements Form 700 Filings Status (Excluding consultants and Board)			
Certifications	Required By	# Past Due	# Filed
Form 700 Assuming Office	• Government Code § 18722	1	27
Form 700 Leaving Office	• Government Code § 18722	8	32

### Observations

- All past due filers required to file Leaving Office statements are no longer with CalPERS.
- 4 of the past due filers have been sent a 1<sup>st</sup> Non-Filer Notification, and 5 of the past due filers have been sent a 2<sup>nd</sup> Non-Filer Notification.

### Note:

- ECOM has undertaken a review of the notification process to increase efficiencies and avoid late filing.
- Posted Form 700s can be viewed at the following link: [CalPERS Transparency and Accountability](#).

# Personal Trade Monitoring – Personal Trading Regulation Affirmations

CalPERS Personal Trading Regulation and the subsequent monitoring of Covered Persons’ personal trading transactions helps to ensure that CalPERS meets its fiduciary duty by preventing insider trading and avoiding potential conflicts of interest.

Quarterly Transaction Affirmations <sup>1</sup>	
Transaction Affirmations Distributed Q2 FY 2016-17	44
Submitted <30 Days Past Due	3
Submitted >30 Days Past Due	2
Still Outstanding	2

Initial Personal Trading Affirmations <sup>2</sup>	
Initial Personal Trading Affirmations Distributed Q2 FY 2016-17	20
Submitted <30 Days Past Due	0
Submitted >30 Days Past Due	0
Still Outstanding	0

## Observations

- Quarterly Transaction Affirmations – Quarterly affirmations were due 11/2/2016. Seven were considered past due, with 2 outstanding at the close of the reporting period. ECOM is working with the outstanding Covered Persons and their management team to bring them current.
- Initial Personal Trading Affirmations - All affirmations were received timely for the quarter.

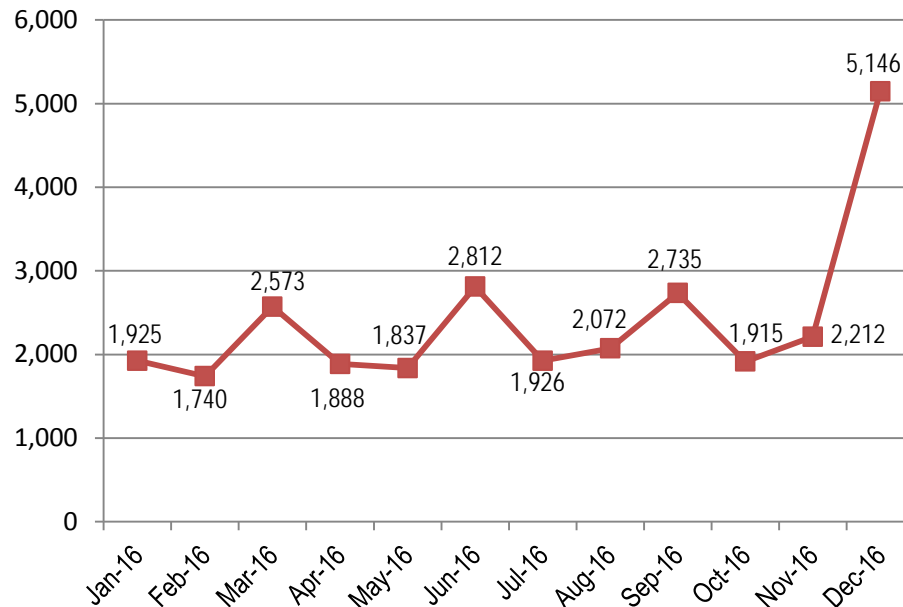
**Note:**

<sup>1</sup> Quarterly Transaction Affirmations: For Covered Accounts from brokers or broker-dealers that do not provide account activity information electronically to the On-Line Platform, Covered Person Employees and Board Members must report all purchases, sales and transfers of Covered Securities on a quarterly basis, within 30 calendar days after the first day of each new calendar quarter.

<sup>2</sup> Initial Personal Trading Affirmations: A Covered Person must disclose his or her Covered Accounts and Managed Accounts, and those of his or her spouse or registered domestic partner, within 30 calendar days of the commencement of employment as a Covered Person.

# Personal Trade Monitoring – Transactions

Personal Trading Total Transactions<sup>1</sup> by Month  
1/2016 – 12/2016



## Observations

- There were 5,146 total transactions for the month of December, more than twice the historical average. This is due to adding 6 designated brokerage firms to the personal trading monitoring system and capturing more managed account activity electronically.
- The addition of 6 new designated brokerages is intended to simplify the reporting process for Covered Persons and reduce the number of required Quarterly Transaction Affirmations.
- Establishing automatic feeds for managed accounts held at designated brokerage firms is in line with recent guidance from the SEC and will provide greater transparency and accountability.

**Note:**

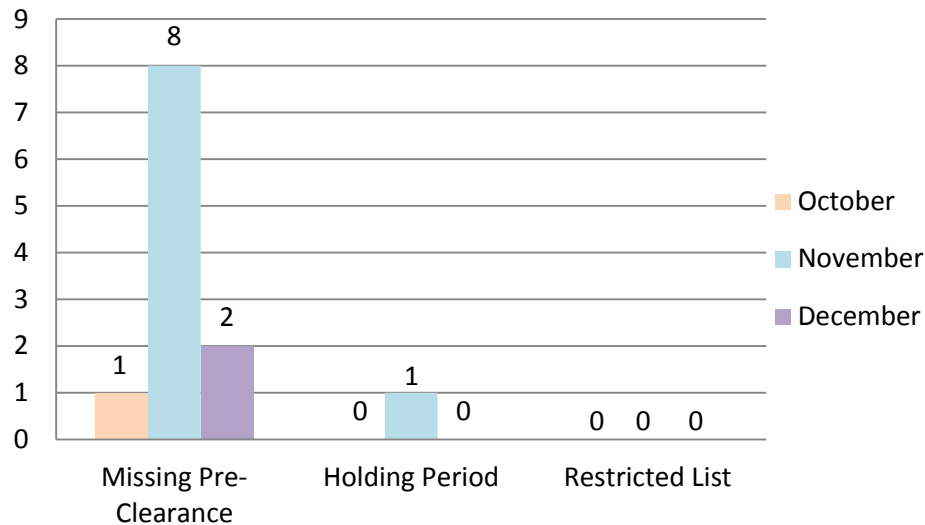
<sup>1</sup> "Total Transactions" includes transactions in non-Covered Securities occurring in Covered Accounts (e.g., cash, open-ended mutual funds, etc.). Transactions for Covered Persons with accounts in non-Designated Brokerages are not reflected.

# Personal Trade Monitoring – Violations

## Personal Trading Violations – Q2 FY 2016-17

Total # of Violations	12
-----------------------	----

### Violations by Type



### Violation Types

**Missing Pre-Clearance:** Covered Persons are required to obtain pre-clearance approval before the purchase, sale or transfer of Covered Securities is executed in a Covered Account, unless the transaction is exempt from the requirement of pre-clearance.

**Holding Period:** The 30 calendar day period between the acquisition and sale, and the 30 calendar day period between sale and re-acquisition, of a Covered Security.

**Restricted List:** A Restricted List means the list of Covered Securities that identifies companies that CalPERS Employees and/or Board Members have information that may be material non-public.

### Observation

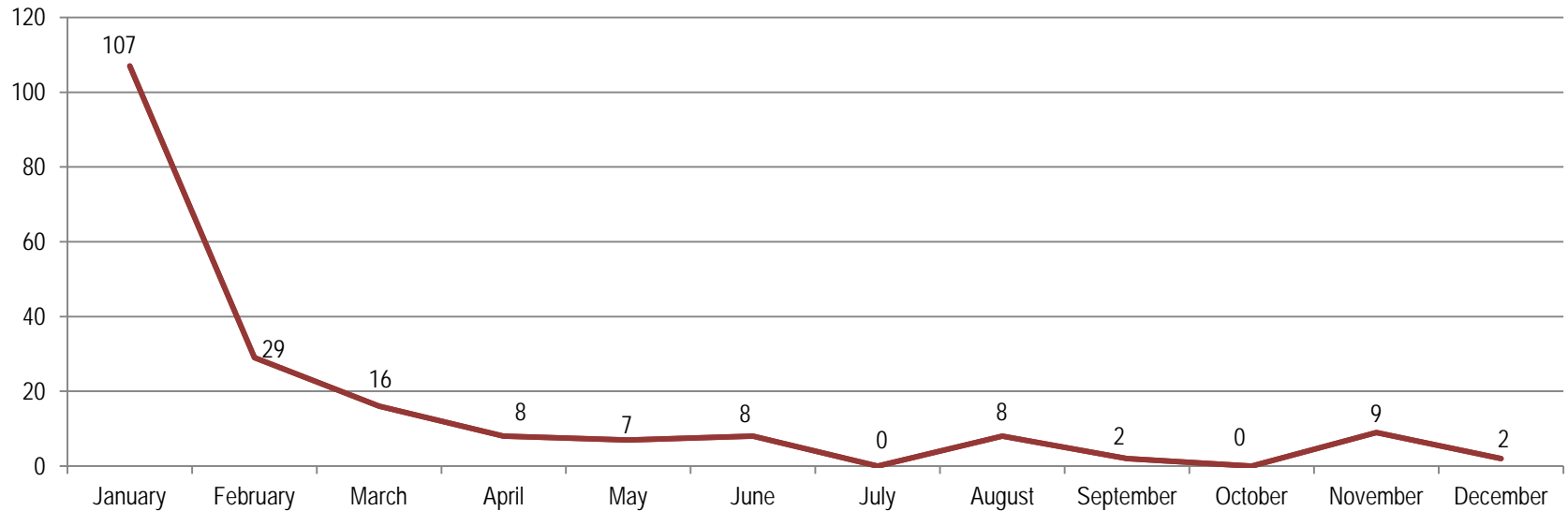
- 7 violations were the result of pre-clearance incorrectly entered.
- The remainder were the results of new Covered Persons not familiar with the requirements. The new Covered Persons have since attended Personal Trading training.

# Personal Trade Monitoring – Violations

## Observations

- Enterprise Compliance continues to see a decrease in the number of Personal Trading Regulations violations since the beginning of the year. This decrease is likely due to increased education, communication and reporting, including recently introduced monthly Personal Trading Regulations education for all new Covered Persons.

**Personal Trading Violations by Month  
1/2016 – 12/2016**





# Ethics Helpline Overview

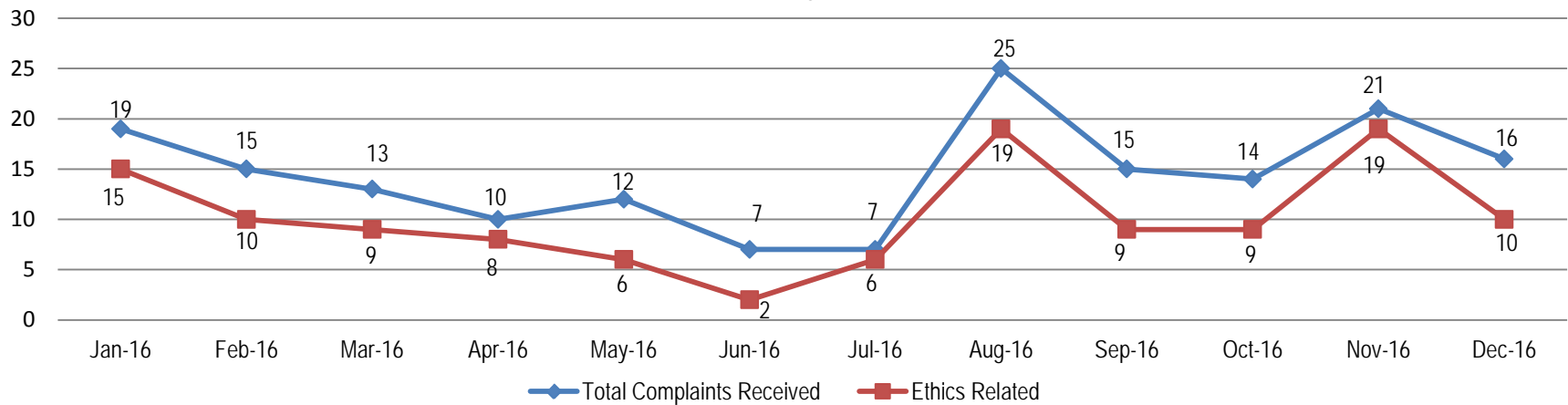
The Ethics Helpline allows individuals to report concerns about possible workplace misconduct, including allegations of fraud, waste, abuse, conflicts of interest, safety violations, harassment, and other potential misdeeds. The Ethics Helpline operates 24 hours a day, online and by phone.

Ethics Helpline Summary – Q2 FY 2016-17	
Ethics Related Complaints Received	38
Ethics Related Complaints Closed	22
Ethics Related Complaints Currently Open and Under Investigation	34

## Observations

- During the Second Quarter FY 2016-17, 13 non-ethics related complaints were received through the Ethics Helpline. These 13 complaints were assigned to the appropriate program areas to be addressed in accordance with Citizen Complaint Act requirements.
- Following the 11/2016 uptick in ethics related complaints received, 12/2016 intake numbers fell back in line with recent trends.

Total Complaints Received by Month – 1/2016 – 12/2016



## Ethics Helpline Total Activity by Complaint Category

The table below displays all Ethics Helpline complaint activity during the Second Quarter FY 2016-17, including complaints received and closed during this quarter and those that are open/pending from previous quarters.

Complaint Category	Closed: Substantiated	Closed: Unsubstantiated	Open: Pending	Non-Ethics Related	Total
Retirement Benefits Fraud or Abuse	1	13	27	0	41
Non-Ethics Related	0	0	0	13	13
Business Integrity & Conflicts of Interest	0	1	3	0	4
Other	1	1	0	0	2
HR, Diversity, and Workplace Respect	0	1	4	0	5
Accounting, Auditing, and Financial Controls	0	4	0	0	4
<b>Total</b>	<b>2</b>	<b>20</b>	<b>34</b>	<b>13</b>	<b>69</b>

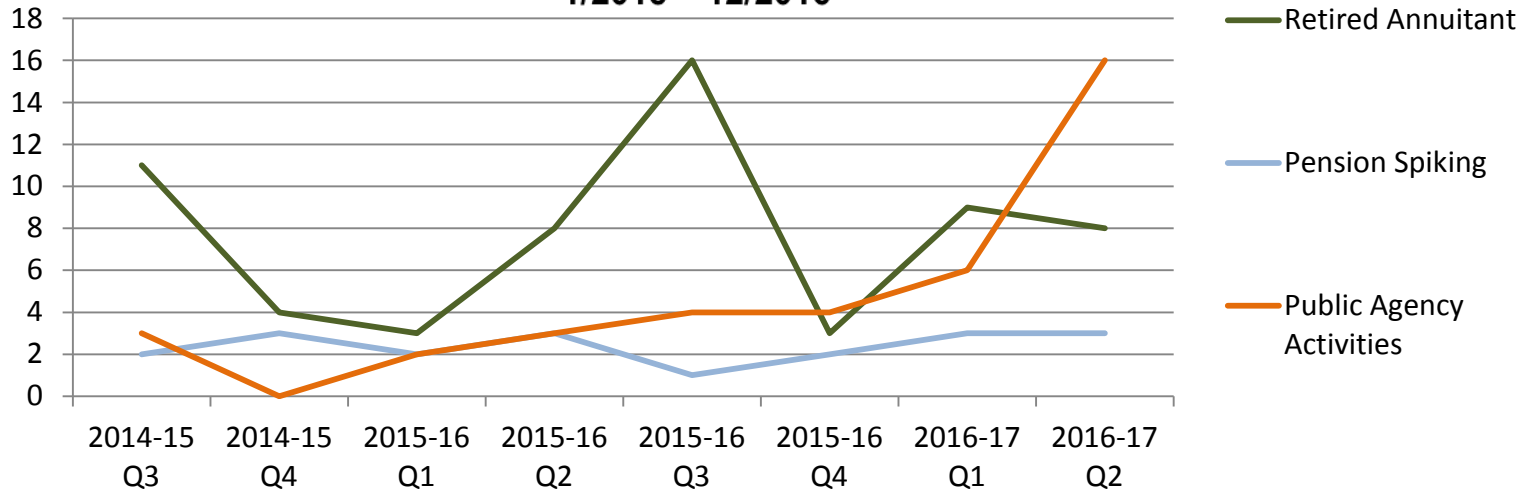
### Observations

- Of the 69 complaint activity items reported, 51 are new complaints received during the reporting period.
- 59% of complaints reported fall into the Retirements Benefits Fraud and Abuse (RBFA) category.
- Complaints that closed this quarter averaged 46 days to close versus 23 days last quarter.
- 35% of the complaints still pending have been open for more than 90 days.

# Ethics Helpline Retirement Benefit Fraud or Abuse (RBFA) 2-Year Trend

The chart below displays the number of RBFA complaints as received over the past two calendar years by subtype.

**RBFA Complaints Received by Quarter**  
1/2015 – 12/2016

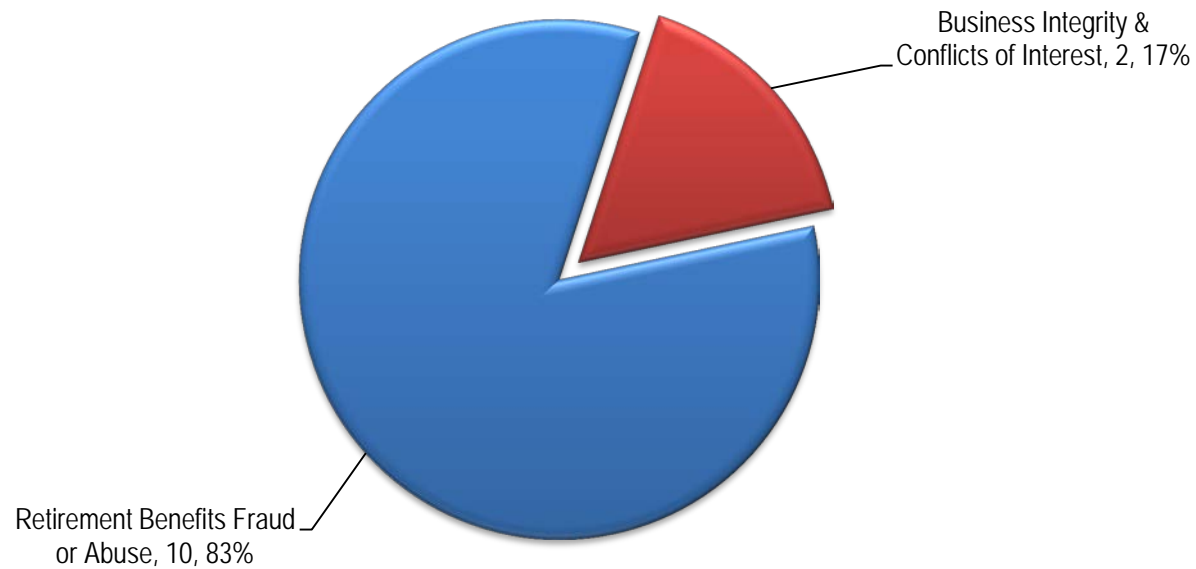


## Observations

- Over the past 2 calendar years, the Ethics Helpline has received an average of 15 new RBFA complaints per quarter. The majority of these complaints generally fall into the “Retired Annuitant” subtype and involve allegations regarding retirees and established Employment After Retirement restrictions.
- The substantial increase in Public Agency Activity complaints reported this quarter is due to two separate complaints received from a single reporting party in 11/2016. These two complaints contained allegations against 14 CalPERS covered cities, and management made the determination to treat them as 14 separate complaints for investigation, tracking, and reporting purposes.

# Ethics Helpline Aging Report

Complaints Open Over 90 Days



## Observations

- The majority of complaints received through the Ethics Helpline involve Retirement Benefits Fraud or Abuse. This has been the trend since the inception of Ethics Helpline reporting.
- As of 12/31/2016, the Average Days Open for the Ethics Related Complaints was 112 days.

# Ethics Helpline Summary of Closed Substantiated Complaints

## Closed Substantiated Complaints 10/2016 – 12/2016

Case Number	Issue Type	Allegation	Finding	Action Taken
2016-636	Retirement Benefits Fraud or Abuse  Public Agency Activities	An unidentified reporting party alleges an employee of a CalPERS employer is wrongfully being allowed to abstain from becoming a CalPERS member.	On 12/16/2016, CSS reported that the allegations were substantiated. A determination letter was mailed to the employer and member.	CalPERS Employer Contributions Adjusted
2016-655	Other	An unidentified reporting party alleges a CalPERS member earned multiple state and local salaries, and obtained duplicative PERS contributions and receipts over the course of several years.	On 12/19/2016, CSS reported the allegation was substantiated. On 12/23/2016, CSS reported that their overtime determination was complete, and they were waiting for the employer to reverse the overtime payroll.	CalPERS Member Benefits Adjusted

# Policy Management

Enterprise Compliance (ECOM) established a new policy management framework, which includes a new standardized policy template and lifecycle management processes. ECOM is currently working with each division’s policy content authors to plan for the transition of their current policies into a new template and policy review process.

The table below displays the activity for Board Approved Policies from 10/1/2016 through 12/31/2016.

Board Approved Policy ---- Per delegation of authority, requires Board review or approval		
Policy Title	Status	Action / Activity
Warrant Inclusion Policy	Complete	Retired Policy