

# Quarterly Status Report – CalPERS Compliance Activity

Third Quarter FY 2016 -17

Presented to  
Risk and Audit Committee  
June 20, 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 – Board &amp; Employee Statements</b>	<ul style="list-style-type: none"> <li>Filing status of Board Members and employees required to file Statements of Economic Interests - Form 700, mandated by the CalPERS - Conflict of Interest Code</li> </ul>	<ul style="list-style-type: none"> <li>28 Assuming Office Statements filed</li> <li>24 Leaving Office Statements filed</li> <li>2 Past Due Assuming Office/Leaving Office Statements outstanding</li> </ul>
5	<b>Conflict of Interest Code – Consultant Statements</b>	<ul style="list-style-type: none"> <li>Filing status of consultants required to file Statements of Economic Interests – Form 700, mandated by the CalPERS - Conflict of Interest Code</li> <li>Resulting from ECOM Consultant Reconciliation Project</li> </ul>	<ul style="list-style-type: none"> <li>34 Past Due Annual, Assuming Office &amp; Leaving Office Statements</li> <li>2 2015 Annual Statements filed</li> <li>14 Assuming Office Statements filed</li> <li>8 Leaving Office Statements filed</li> </ul>
6-9	<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>1,713 Total transactions</li> <li>20 Violations identified</li> </ul>
10	<b>Investment Compliance Monitoring</b>	<ul style="list-style-type: none"> <li>Policy Exceptions (Investment Office)</li> </ul>	<ul style="list-style-type: none"> <li>0 Policy Exceptions Identified</li> </ul>
11-17	<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>27 Complaints currently open and under investigation</li> <li>30 Complaints received during Q3 FY 2016-17</li> <li>37 Complaints closed during Q3 FY 2016-17</li> </ul>

## Conflict of Interest Code – Board & Employee Statements

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.

<i>Assuming / Leaving Office Statements Form 700 Board &amp; Employee Filings Status</i>		
Certifications	# Past Due	# Filed
Form 700 Assuming Office	-	28
Form 700 Leaving Office	2	24
<b>Grand Total</b>	<b>2</b>	<b>52</b>

### Observations:

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

### Note:

- Board Member and Transparency Filer Form 700s can be viewed at the following link: [CalPERS Transparency and Accountability](#).

## Conflict of Interest Code – Consultant Statements

<i>Assuming / Leaving Office Statements Form 700 Consultant Filings Status</i>		
Certifications	# Past Due	# Filed
2015 Annual Form 700	6	2
Form 700 Assuming Office	23	14
Form 700 Leaving Office	5	8
<b>Grand Total</b>	<b>34</b>	<b>24</b>

### Observations:

- During December 2016 and January 2017, ECOM conducted a reconciliation of 120 consultants to identify overdue Form 700 filers.
- ECOM partnered with affected divisions and conferred with individual consultants to assist them in understanding their Form 700 filing requirements.
- During Q3 FY 2016-17, ECOM notified 51 past due filers of their obligation, and 34 are currently outstanding. Referrals to FPPC will likely begin in June/July 2017.

### Note:

- *Assuming Office and Leaving Office Statements are due within 30 days of assuming or leaving office. Statements are considered past due if they are not filed within this timeframe.*

# Personal Trade Monitoring – Personal Trading Regulation Affirmations

Quarterly Transaction Affirmations <sup>1</sup>	
FY Q2 2016-17 Transaction Affirmation - Due in FY Q3 2016-17	42
Submitted <30 Days Past Due	4
Submitted >30 Days Past Due	-
Still Outstanding	-

Initial Personal Trading Affirmations <sup>2</sup>	
Initial Personal Trading Affirmations - Due in FY Q3 2016-17	24
Submitted <30 Days Past Due	1
Submitted >30 Days Past Due	1
Still Outstanding	-

## Observations:

- Quarterly Transaction Affirmations – There were 42 Q2 FY 2016-17 Quarterly Transaction Affirmations that were due February 2, 2017. There were four Q2 FY 2016-17 Quarterly Transactions Affirmation submitted less than 30 days past due.
- Initial Personal Trading Affirmations - There were 24 Initial Personal Trading Affirmations that were due in Q3 FY 2016-17. There was one Q3 FY 2016-17 Initial Personal Trading Affirmations submitted greater than 30 days past the due date and one submitted less than 30 days past the due date.

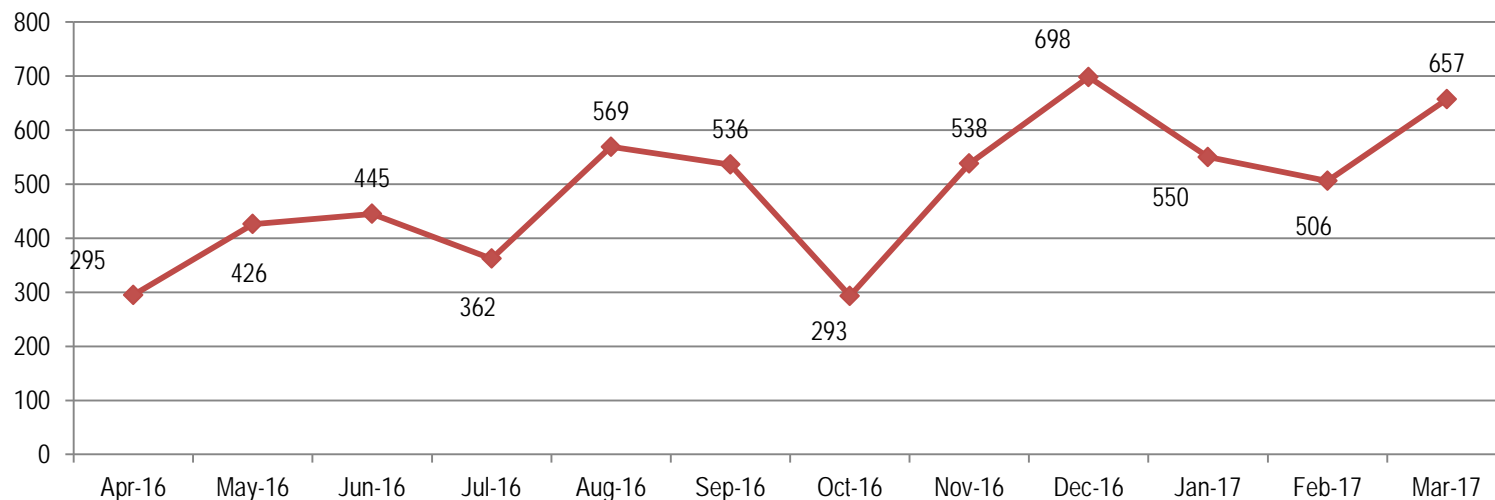
### Note:

<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  
04/2016 - 03/2017



### Observations:

- There were 1,713 total transactions posted in Q3 FY 2016-17.

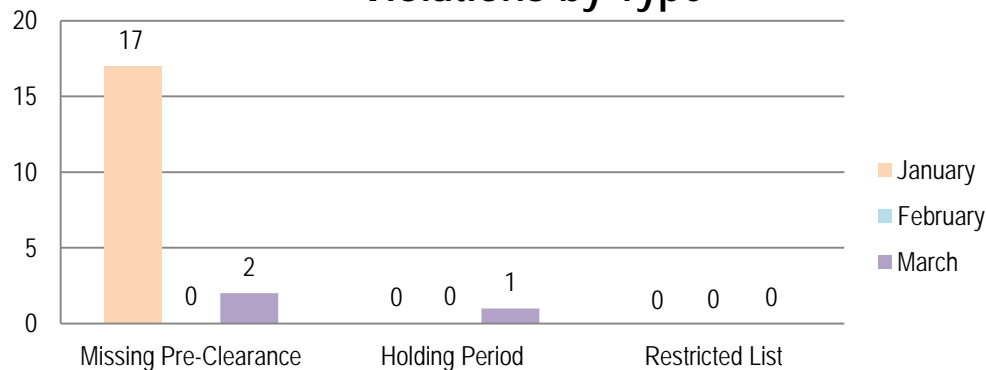
### Note:

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

# Personal Trade Monitoring – Violations

Personal Trading Violations – Q3 FY 2016-17	
Total # of Violations	20

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.

### Observations:

- There were 17 Missing Pre-Clearance violations executed by four Covered Persons during the month of January 2017.
- 65 percent of the January 2017 violations (11 total) were the result of a single Covered Person who misunderstood the reporting requirements for non-publicly traded securities. The employee received individual training on the regulations and requirements.

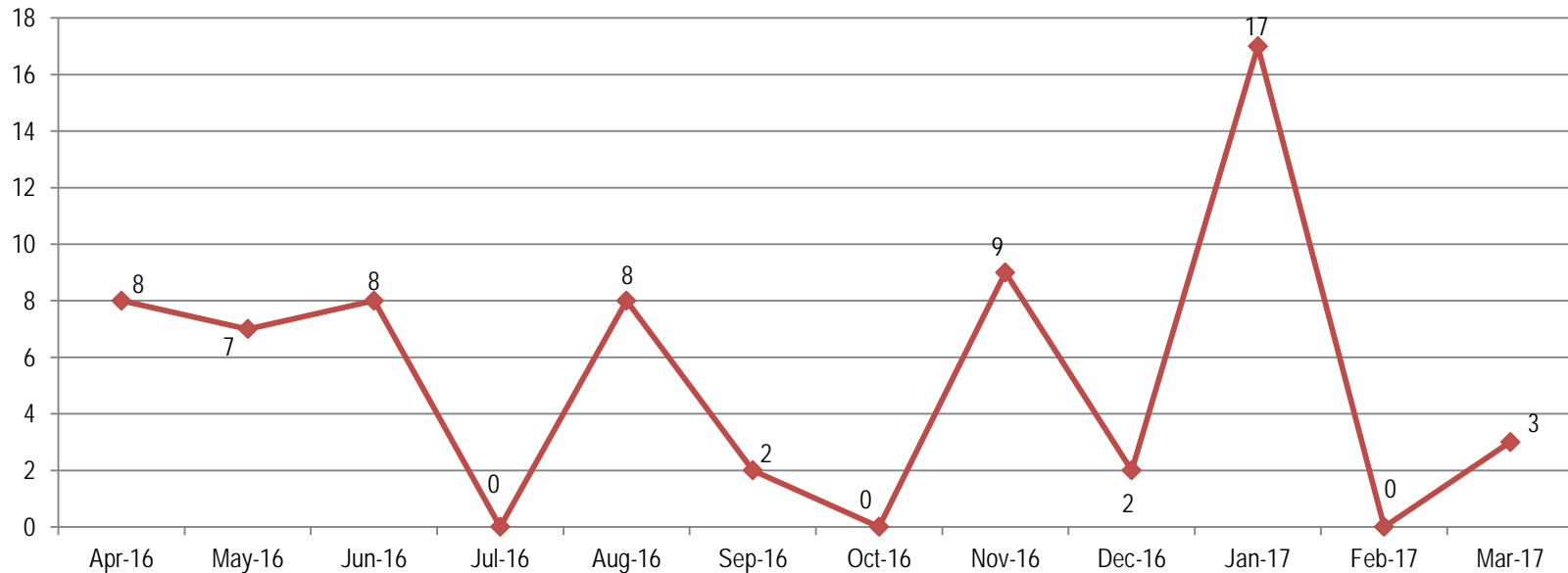


# Personal Trade Monitoring – Violations

## Observations:

- Enterprise Compliance continues to provide Personal Trading training to Covered Persons and, as a result, the number of violations since the beginning of last year have been significantly reduced.
- The number of violations in January 2017 are due to one Covered Person who misunderstood the reporting requirements for non-publicly traded securities.

**Personal Trading Violations by Month  
04/2016 – 03/2017**



# Policy Exceptions – Investment Office (Q3 FY 2016-17)

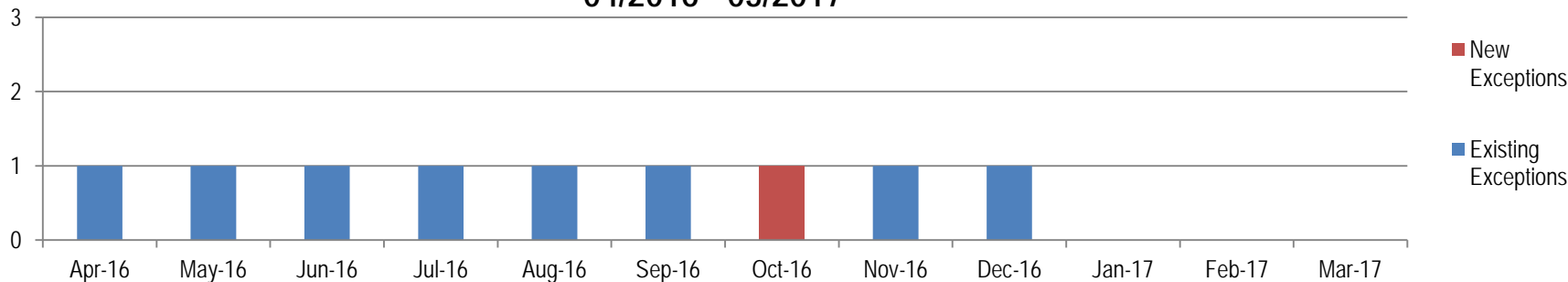
## New Policy Exceptions:

Program Area of Asset Class	Event Date	Resolution Date	Policy	Exception Description	Event Description and Resolution (expected) or Next Steps
No Items to Report					

## Existing Policy Exceptions:

Program Area of Asset Class	Event Date	Resolution Date	Policy	Exception Description	Event Description and Resolution (expected) or Next Steps
No Items to Report					

Investment Office Policy Exceptions by Month  
04/2016 - 03/2017



## Observations:

- For the one new exception in the Q2 FY 2016-17 reporting period, the Infrastructure Program exceeded the 0-10 percent allocation range limit of the Extended Risk Segment. The Extended Risk Segment represented 15 percent of the Infrastructure Program. The Investment Policy Procedures & Guidelines were updated effective 1/1/2017, resolving the issue.

# Ethics Helpline Overview

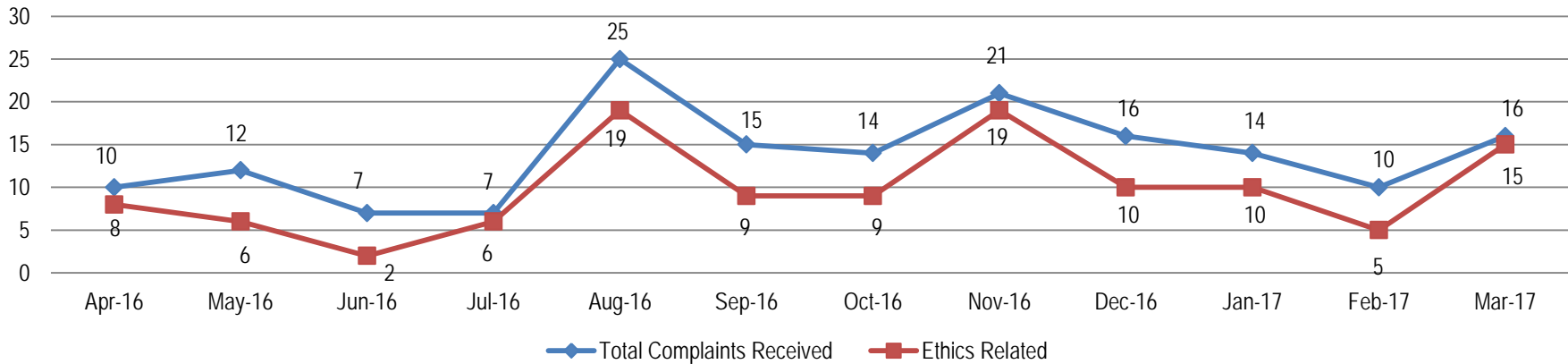
The Ethics Helpline allows individuals to report concerns about possible workplace misconduct, including allegations of fraud, waste, abuse, conflicts of interest, safety violations, harassment, and other potential misdeeds. The Ethics Helpline operates 24 hours a day, online and by phone.

Ethics Helpline Summary – Q3 FY 2016-17	
Ethics Related Complaints Received	30
Ethics Related Complaints Closed	37
Ethics Related Complaints Currently Open and Under Investigation	27

### Observations:

- During the Third Quarter FY 2016-17, 30 ethics related and 10 non-ethics related complaints were received through the Ethics Helpline. The 10 non-ethics related complaints were assigned to the appropriate program areas to be addressed in accordance with Citizen Complaint Act requirements and organizational standards.

**Total Complaints Received by Month**  
04/2016 – 03/2017



## Ethics Helpline: Total Ethics Related Activity by Complaint Category

The table below displays the Ethics Helpline complaint categories and includes complaints closed, open/pending, and totals during the Third Quarter FY 2016-17.

Ethics Complaint Category	Closed: Substantiated	Closed: Unsubstantiated	Open: Pending	Total
Retirement Benefits Fraud or Abuse	7	16	20	43
Business Integrity & Conflicts of Interest	-	2	3	5
HR, Diversity, and Workplace Respect	1	6	3	10
Information Security and Records	-	3	-	3
Accounting, Auditing, and Financial Controls	-	1	-	1
Other	-	1	1	2
<b>Grand Total</b>	<b>8</b>	<b>29</b>	<b>27</b>	<b>64</b>

### Observations:

- 42 percent of total ethics related complaints reported are still open/pending (27 out of 64).
- 67 percent of complaints reported (43 total) fall into the Retirements Benefits Fraud and Abuse (RBFA) category.

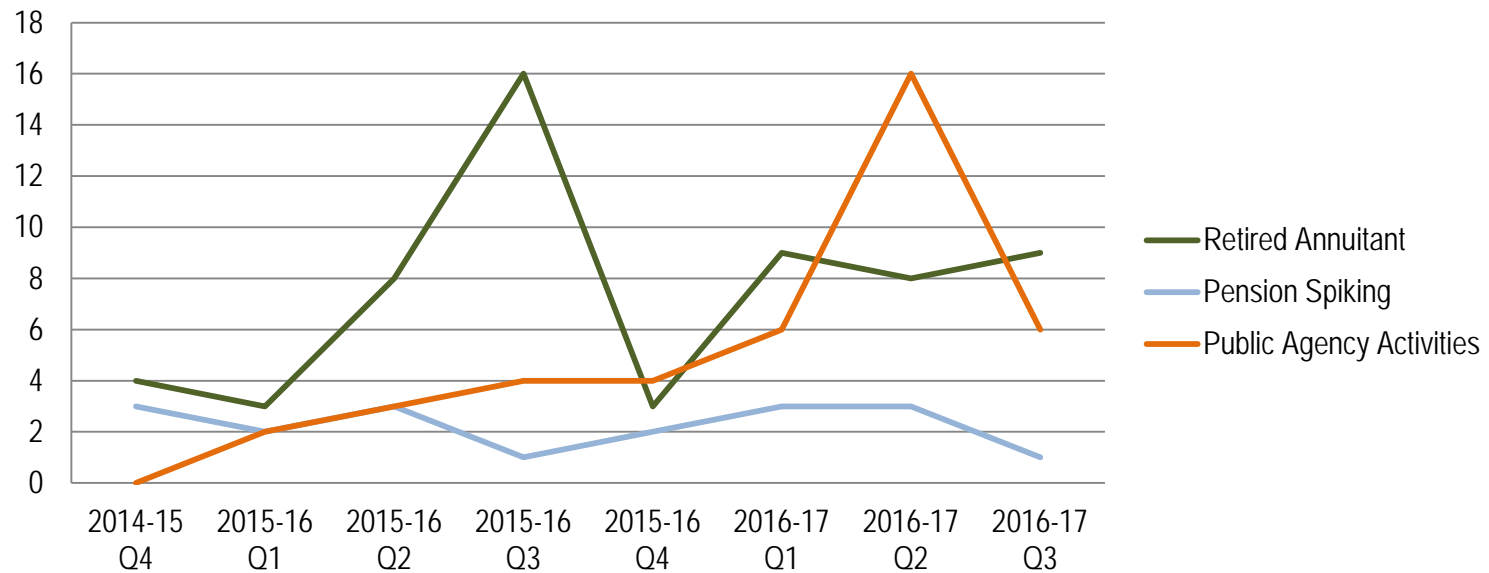
*Note:*

- 10 non-ethics related complaints were received during the reporting period, and are not represented in the above table.

# 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 years by subtype.

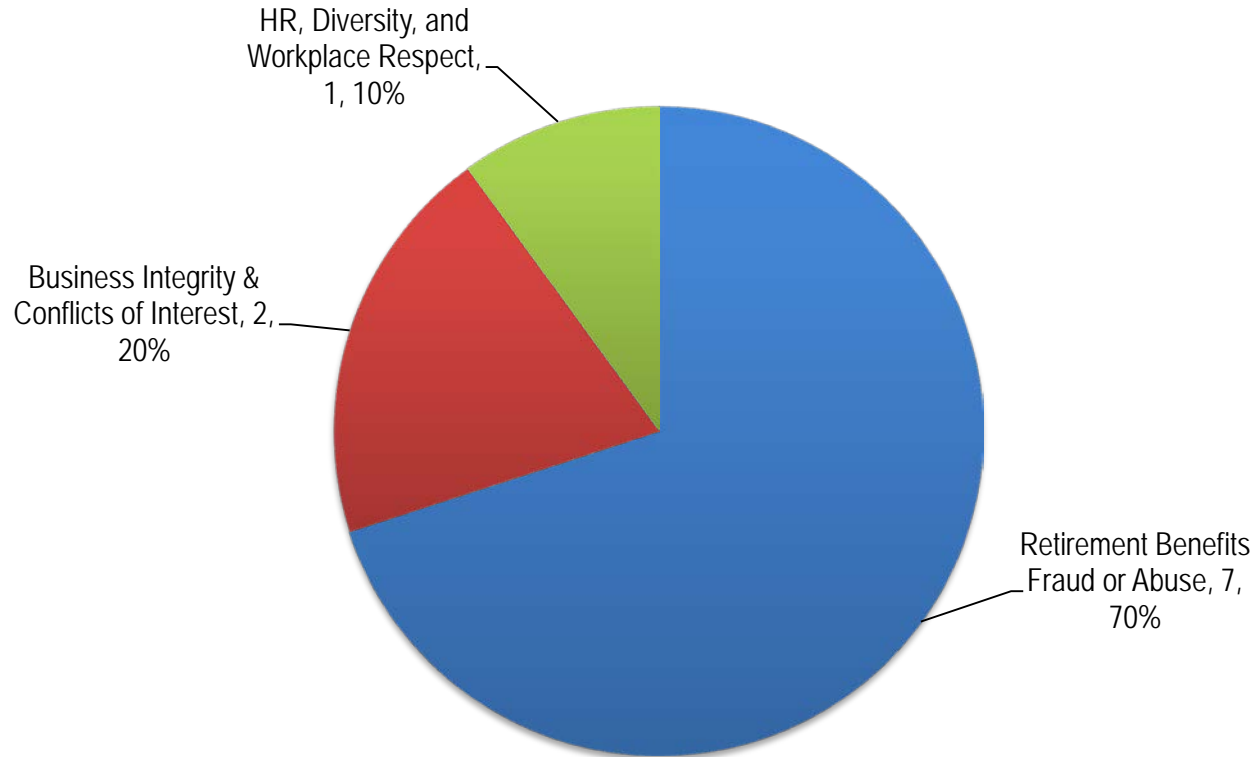
**RBFA Complaints Received by Quarter  
04/2015 – 03/2017**



**Observations :**

- Over the past two 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.

## Ethics Helpline 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 March 31, 2017, the average number of days ethics related complaints were open was 118.

# Ethics Helpline Summary of Closed Substantiated Complaints

## Closed Substantiated Complaints 01/2017 – 03/2017

Case Number	Issue Type	Allegation	Finding	Action Taken
2016-603a 2016-603b	Retirement Benefits Fraud or Abuse	The reporting party alleges a CalPERS retiree is working in violation of retirement laws and is not reporting its employees to CalPERS accurately.	CSS reported that the allegations were substantiated, and a determination letter has been sent to the employer.	Closed 1/19/17: Substantiated
2016-661	Retirement Benefits Fraud or Abuse	The reporting party alleges a CalPERS retiree is working in violation of retirement laws.	All employees are working as independent contractors. Issue Memo was drafted for Division Chief to recommend OFAS conduct an audit to resolve.	Closed 1/19/17: Substantiated

# Ethics Helpline Summary of Closed Substantiated Complaints (Cont.)

## Closed Substantiated Complaints 01/2017 – 03/2017

Case Number	Issue Type	Allegation	Finding	Action Taken
2016-639a 2016-639b	Retirement Benefits Fraud or Abuse	An unidentified reporting party alleges a CalPERS employer hired an employee in violation of retirement laws.	CSS reported that their review determined the allegations were substantiated. Employer and Member have requested an appeal.	Closed 2/21/17: Substantiated
2016-667	Retirement Benefits Fraud or Abuse	An unidentified reporting party alleges a CalPERS agency is incorrectly applying contract exclusions regarding part-time/hourly employees and thereby preventing employees from becoming members of CalPERS when they become eligible.	CSS reported that their review determined the allegations were substantiated. A letter was sent to the employer with instructions to remedy.	Closed 2/2/17: Substantiated



# Ethics Helpline Summary of Closed Substantiated Complaints (Cont.)

## Closed Substantiated Complaints 01/2017 – 03/2017

Case Number	Issue Type	Allegation	Finding	Action Taken
2016-672	Retirement Benefits Fraud or Abuse	An unidentified reporting party alleges a CalPERS agency is incorrectly applying contract exclusions regarding part-time/hourly employees and thereby preventing employees from becoming members of CalPERS when they become eligible.	CSS reported that they responded to the employer clarifying membership rules in relation to contract exclusions. The employer stated they will comply.	Closed 2/21/17: Substantiated
2017-707	HR, Diversity, and Workplace Respect	The reporting party alleges a CalPERS manager is having employees drive him to medical appointments during working hours.	HRSD reported that they conducted a fact finding interview and determined the allegations to be substantiated. The Performance Management Unit has been engaged to address the issue.	Closed 3/17/17: Substantiated