

# Review of SRA Regulatory Management

March 2014

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## *Executive summary*

The Solicitors Regulation Authority (SRA) takes a risk-based approach to regulation. We use risk profiles for all firms we regulate to understand the level of risk they present to the regulatory objectives. We treat risk as a combination of:

- Probability - the likelihood of a negative impact occurring
- Impact - the potential size of the negative impact.

Our risk profiles rate and rank each firm we regulate on these two factors. A key part of our supervision approach focuses on assessing and mitigating the regulatory risks created by 'high impact' firms.

This report examines the impacts of our supervision approach to high impact firms, otherwise referred to as Regulatory Management (RM). The aim is to identify the impacts to date of RM on the regulated community and to set a baseline from which future impacts can be measured.

The research is based on an online survey of firms in RM. Invitations to participate in the survey were sent to a sample of 120 firms in RM in August 2013. These firms had either been in RM for 6 months or had at least three engagement visits (whichever was longest). 59 responses were received resulting in a response rate of 49.2 percent.

Key findings from the survey are presented below.

## *Profile of respondents*

- The survey included firms from all regions in England and Wales. Just over one in five firms (22.4 percent) had between 41 to 60 partners, while two in five respondent firms had between one and 40 partners (36.2 percent). At the other end of the scale, 5 respondent firms (8.6 percent) had more than 201 partners
- In terms of turnover, 28.6 percent of respondent firms had a turnover of between £21m and £40m, with a further 28.6 percent having a turnover of between £41m and £100m. 7.1 percent had a turnover in excess of £200m

## *Interaction with Regulatory Management and the SRA*

- More than three in four firms that responded to the survey (76.3 percent) have had a dedicated Regulatory Manager for more than a year, with almost two in five having engaged with a Regulatory Manager for over 18 months. The remaining 23.7 percent of firms that responded to the survey reported to have had a Regulatory Manager for less than 12 months
- For just under three in ten cases, RM engagement has comprised three meetings, in addition to regular engagement via written and telephone correspondence. Approximately one in five firms have had more than five meetings with the SRA's Regulatory Managers. The number of meetings with each firm is by no means uniform and will depend heavily on the risk profile of the firm, whether the firm is an initial or advanced stage of engagement, the type of work

carried out by the firm, its client profile and any particular risk areas. For example, financial stability has been identified as a current risk to consumers, firms and the regulatory objectives of the SRA. Both RM and the supervision of low and medium impact firms have been providing more intensive engagement with firms already in, or at risk of, financial difficulty, which has included more regular firm meetings and investigatory visits.

### *Working relationship with Regulatory Managers*

- 89.8 percent of respondents either agreed or strongly agreed that their firm has a constructive working relationship with the Regulatory Managers of the SRA. Reasons to support this view were provided by these respondents and included:
  - establishment of a direct line of communication between representatives from the firm and the SRA
  - Regulatory Managers having a more detailed and informed understanding of firm structures and internal management systems
  - the transparency of shared information between the firm and the Regulatory Managers
  - the provision of more tailored information.
- Only 5 percent of firms either disagreed or strongly disagreed that they do not have a constructive working relationship with the Regulatory Managers of the SRA (the remaining 5.1 percent 'neither agreed or disagreed'). Reasons for this view included:
  - the increased burden of dealing more frequently with the SRA
  - limited input from the SRA on how firms can improve the business.

### *Working relationship with the SRA as a whole*

- Over two thirds of firms that responded to the survey (67 percent) stated that their relationship with the SRA has become more constructive over the past 12 months. It is noteworthy that 94.8 percent of these firms 'strongly agreed' or 'agreed' that their interaction with the SRA's RM team contributed to this change.

### *Complying with regulation*

#### *Costs associated with OFR*

- A significant proportion of firms stated that compliance with Outcomes focused Regulation (OFR) does not cost too much money or time. Only 21 percent of respondents 'agreed' or 'strongly agreed' that complying with OFR costs too much money. 22 percent of respondents 'agreed' or 'strongly agreed' that complying with OFR takes too much time
- 84.7 percent of respondents stated that, other than nominating a COLP and COFA, their firms have made changes to the way they comply with SRA regulation as a result of OFR. Only 15.3 percent of respondents are continuing to approach compliance in the same way, with the exception of nominating their COLP or COFA. The main changes reported by firms were creating and implementing new policies, providing staff with information on the requirements of OFR and providing staff training

#### *Costs associated with RM*

- 59.5 percent of respondents reported that having a dedicated Regulatory Manager has allowed their firm to comply with regulation more effectively
- A significant proportion of respondents (47.5 percent) reported that they require more time to comply with the SRA's regulatory arrangements as a result of being identified as high impact and having a Regulatory Manager. The main reasons put forward for this increase in time

were:

- Preparing for and holding meetings - both resource intensive and require the compilation of various pieces of information and evidence
- Compliance requirements - a number of respondents stated that increased responsibilities relating to supply of information necessitated the recruitment of Compliance Officers for Legal Practice (COLPs) and Compliance Officers for Finance and Administration (COFAs). Existing staff in larger firms could not dedicate sufficient time to SRA requirements and information requests
- 86.5 percent of respondents 'strongly agreed' or 'agreed' with the following statement - "Even if you were not required to do so by the SRA, your firm would continue what it currently does to comply simply in order to run your firm well and look after your clients interests". Only 5.1 percent of respondents 'disagreed' or 'strongly disagreed' with this statement and 8.4 percent gave a neutral response. This indicates that the vast majority of respondents accept that what they do to comply is directly related to the good management of their business and the need to look after their clients interests.

### *Approach to risk management*

- 84.7 percent of respondents have made internal and infrastructural changes to risk management as a result of the introduction of OFR. Examples of such changes can be grouped under two main headings:

#### *Improvement in internal processes:*

- the introduction of more effective data collection and analysis
- the implementation of improved audit trails and recording of information
- the introduction of risk management structures, including detailed risk registers

#### *Firm structure and staff changes:*

- larger firms that responded to the survey have recruited additional staff to address the compliance issues arising from day-to-day firm activities. In particular, they have appointed Risk Managers, responsible for implementing firm-wide procedures
- When asked to consider the influence of RM on changes to internal management of risk, there was a mixed response. Almost half of the respondents (49 percent) stated that changes to risk management had 'partly been due to the new form of supervision and engagement activity'. This contrasted with one in three respondents who stated that changes were 'not due to the new form of Supervision'
- According to respondents the introduction of RM has enabled the SRA to identify and better understand the risks associated with particular firms. This has been facilitated through more regular interaction between firm representatives and the SRA. Firms were asked to rate, on a scale of one to five (where one is 'strongly disagree' and five is 'strongly agree'), whether they felt that the SRA is better placed to understand the risks associated with their firm as a result of their interaction with the SRA's Regulatory Managers. The average rating was 4.24, highlighting the increased effectiveness of RM in risk management.

### *Next steps*

The findings presented in this report have established a baseline for future survey work. By repeating the survey in 2016 and, by using the results of this firm survey as a baseline, we would be able to determine if there are any changes in views of regulated firms. We will use the findings of the 2016 survey to measure our impact and make operational and performance improvements.

We will also continue to embed and develop our approach to regulating high impact firms, taking into account the feedback provided through the surveys. We will increase communication with a newsletter to the RM community and develop a bespoke approach to regulating the larger and city firms based on our greater understanding of the risks posed to our regulatory objectives posed by different cohorts of firms.