Syed Rahman discusses the recent increase in FCA raids with Compliance Monitor

15 Jul 2019 Syedur Rahman.

The FCA has reported that it carried out more dawn raids last year than in any year since 2010. But – in an era where the regulator is opening more cases, spending a higher budget and employing more staff – Syedur Rahman argues that the reasons for the raids and the results they produce are more important than the numbers.

It's a catchy headline: the number of dawn raids conducted by the Financial Conduct Authority has almost doubled over the past year. The use of such raids has leapt from a total of 13 in 2017 to 25 in 2018. Admittedly, 25 is not a huge number but the rise is certainly significant. Yet perhaps the real news lies in the reasons behind the increase in raids – and what results from them.

This escalation can be understood in the context that the FCA needs to take strong action when it comes to cracking down on unregulated investments. It must be seen to be tackling the likes of boiler room operations as well as a variety of high-risk investment schemes. A failure to do so – or even a perceived failure to do so – can be viewed as weakness on the FCA's part. So, it is not particularly surprising that the regulator is now resorting to more raids.

While 25 raids in a year is only just over two a month, it is worth bearing two things in mind. The first is that 25 is the highest annual total for the FCA since 2010, which was when the United Kingdom was having to come to terms with the severe consequences of the financial crisis. Secondly, the number of raids per year fell to fewer than ten from 2014 to 2016.

Whatever the reason, this is one indicator of an uptick in enforcement activity by the FCA. The regulator, it appears, now has either a greater appetite for raids or more need to conduct them – or both.

There is an argument that when the economy and the markets are not particularly buoyant it becomes easier for the FCA – and any of its counterparts abroad – to identify investment fraud and mis-selling. But the current raid figures, I suggest, indicate more than a response to circumstances. They appear to be yet another sign of the FCA taking a tougher approach in the wake of major investigations such as LIBOR and forex-rigging being concluded. The regulator has clearly recognised that undertaking raids sends a clear message to unauthorised businesses and those who conduct unregulated investments.

There is currently an upward trend with FCA enforcement and criminal investigations. There are a number of reasons for this – including the FCA's approach to streamlining certain investigations and processes in order to save both time and expense. Measures such as introducing partly-contested hearings and focused resolution agreements have helped in this regard.

But there is also political pressure for the FCA to be more proactive. That pressure has been on it for some time.

A year ago, the FCA's own statistics showed that it was opening more cases than ever: up from 100 in 2016 and 410 in 2017, to 504 by April 2018. Moreover, it was revealed that its spending had risen by 35 per cent in four years and that its staff numbers had swelled by almost 50 per cent in the same period. Yet questions have persisted regarding the FCA's performance. Last year's figures for case openings and staffing levels came at a time when the regulator's penalty levels were at their lowest for seven years – a scenario that hardly highlights an ability on the FCA's part to 'get their man'.

If we are now in an era where the FCA is opening more cases, employing more staff and, as we have just learned, conducting more raids, it is only logical to expect an increase in the number of penalties.

The upsurge in the number of raids may well indicate a stronger approach to enforcement from the regulator. But this has to be accompanied by an upturn in results. In the past, the FCA has emphasised that it will not shy away from the difficult cases. But any number of investigations opened and raids carried out will ultimately count for nothing unless the FCA succeeds in bringing to book those it has targeted. Because that is the ultimate statistic by which to judge the FCA's effectiveness.

The article can be read here.

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