

New Record for Number of Employees Affected by Rule 21F-17(a) Violations Does Not Lead to Increase in Sanctions Against CBRE

Article By:

Benjamin Calitri

The Securities Exchange Commission appears to be increasing the frequency of their enforcement of Rule 21F-17(a). With the [recent enforcement](#) against CBRE, Inc., the SEC has now released two [enforcement orders](#) and one [finalized judgement](#) in the past month. [Rule 21F-17\(a\)](#) prohibits any person from “tak[ing] any action to impede an individual from communicating directly with the Commission staff about a possible securities law violation, including enforcing, or threatening to enforce, a confidentiality agreement.”

Strong enforcement of this rule is vital to the strength of the [SEC Whistleblower Program](#). Contracts that seek to prevent employees from utilizing whistleblower programs or speaking to regulators [undermine the effectiveness of the program](#). While these contracts are moot, most employees do not know this and are not willing to risk violating these illegally restrictive contracts.

According to the enforcement [Order](#), CBRE required employees to stipulate that they had “not filed any complaint or charges against CBRE” in order to receive separation pay. This language was used in the contracts of over 100,000 employees between 2011 and 2022, with over 800 employees affected between 2021 and 2022. This is by far the largest amount of employees affected by language found to violate Rule 21F-17(a), surpassing the prior number of 10,000 to 15,000 employees affected by [Brinks employee contracts](#).

This record number of affected employees has, however, not led to any increase in the amount of the sanction. In addition to notifying affected employees and former employees of their right to file with the SEC, CBRE was only required to pay a sanction of \$375,000 for silencing 100,000 potential whistleblowers. That is below the required sanction amount of \$1 million that is required for a whistleblower to even receive an award under the SEC Whistleblower Program. This is typical of the SEC’s Rule 21F-17(a) violations, with the highest sanction from enforcement of this Rule being \$400,000 against Brinks. These low sanction amounts grant near impunity to companies to silence whistleblowers, despite any increase in the frequency of enforcements.

National Law Review, Volume XIII, Number 263

Source URL: <https://natlawreview.com/article/new-record-number-employees-affected-rule-21f-17a-violations-does-not-lead-to>