

## Enforcement Data for Calendar 2021

*Released August 31, 2022*

### Introduction

In June 2018, the staff of the Committee on Capital Markets Regulation (the “**Committee**”) released a report entitled *Rationalizing Enforcement in the U.S. Financial System* (the “**Enforcement Report**”).<sup>1</sup> The Enforcement Report comprehensively overviewed and assessed the public enforcement system for the U.S. financial system, including its structure, the manner in which monetary sanctions are set, how enforcement authorities use monetary sanctions, and the importance of holding culpable individuals accountable for illicit conduct. The Enforcement Report also made nineteen recommendations aimed at enhancing the transparency, efficiency, and rationality of the enforcement system.

As part of the report, Committee staff compiled data on enforcement actions by agencies with jurisdiction over financial markets and the financial system from 2000 to 2016,<sup>2</sup> including the number of enforcement actions, the total monetary sanctions imposed, and the median and mean monetary sanctions imposed on individual and entity defendants. The Enforcement Report’s data analysis showed substantial increases in enforcement activity as measured by total number of enforcement actions and total monetary sanctions in the years following the 2008-2009 financial crisis with a downward trend thereafter. The Committee staff has updated this data annually to provide the public and policymakers a summary of the trends in enforcement actions over a long-term time horizon. This release updates the data through calendar year 2021.

The enforcement data for 2021 show that, after fluctuating within a stable range from 2012 to 2019, the total number of enforcement actions fell with the onset of the pandemic in 2020 and remained near its post-financial crisis low in 2021. Meanwhile, after rising sharply in 2020, total monetary sanctions resumed their post-financial crisis decline in 2021 and are now at the lowest level since 2011. This reflects partly a sharp fall in the number of large outlier sanctions and partly a general decline in the average value of sanctions imposed. Although mean and median monetary sanctions declined across the board in 2021, they remain within historical ranges.

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<sup>1</sup> COMMITTEE ON CAPITAL MARKETS, *Rationalizing Enforcement in the U.S. Financial System* (June 2018), <https://www.capmksreg.org/wp-content/uploads/2018/10/Rationalizing-Enforcement-in-the-US-Financial-System.pdf>.

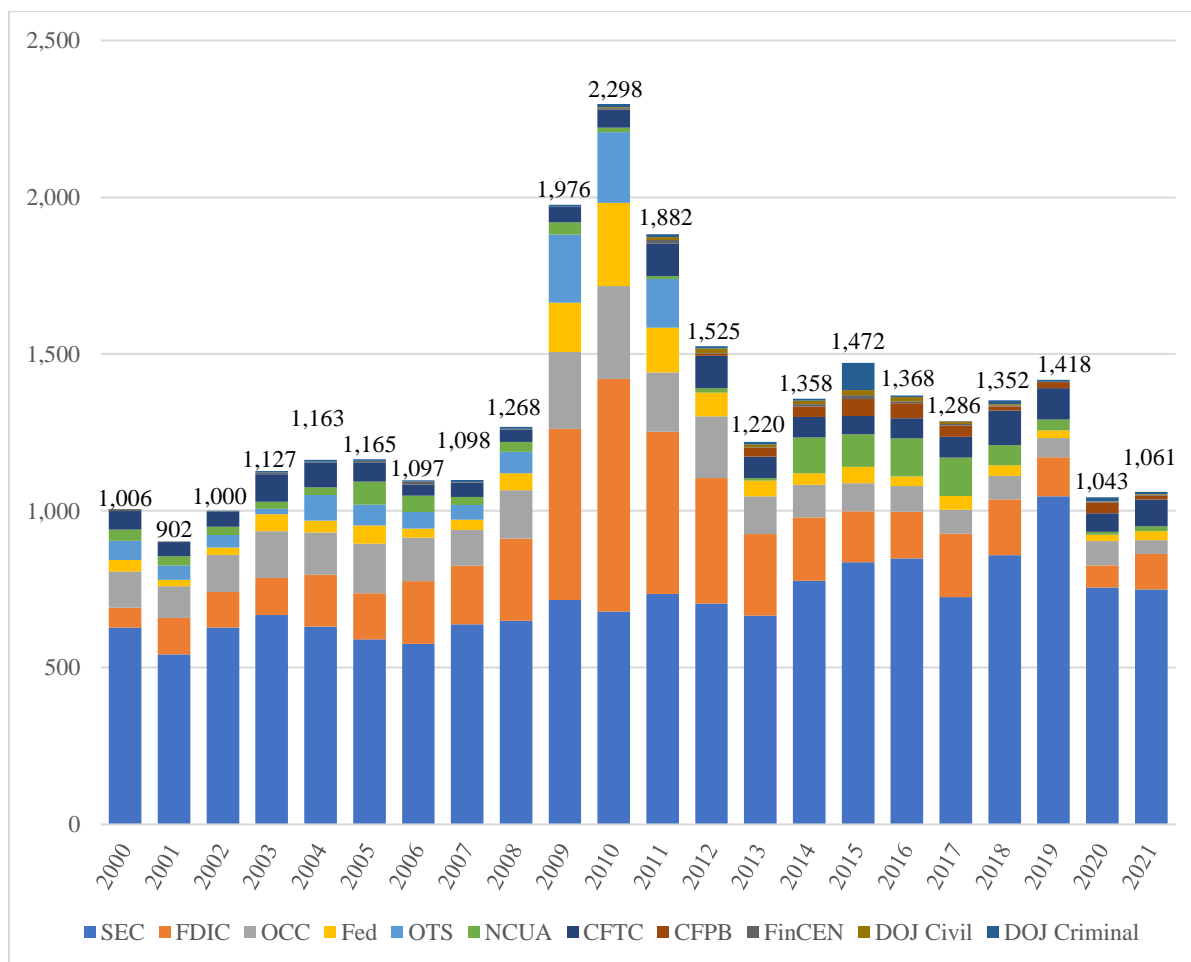
<sup>2</sup> Data was collected on enforcement actions by the Commodity Futures Trading Commission (“**CFTC**”), Consumer Financial Protection Bureau (“**CFPB**”), Department of Justice (“**DOJ**”), Federal Deposit Insurance Corporation (“**FDIC**”), Federal Reserve (“**Fed**”), Financial Crimes Enforcement Network (“**FinCEN**”), National Credit Union Administration (“**NCUA**”), New York Department of Financial Services (“**NY DFS**”), Office of the Comptroller of the Currency (“**OCC**”), Office of Foreign Assets Control (“**OFAC**”), Office of Thrift Supervision (“**OTS**”), and Securities and Exchange Commission (“**SEC**”).

**Data Presentation**

*Number of Actions*

**Figure 1** illustrates the number of enforcement actions brought by each of the federal agencies identified in the chart from 2000 to 2021.<sup>3</sup>

**Figure 1: Total Number of Enforcement Actions**



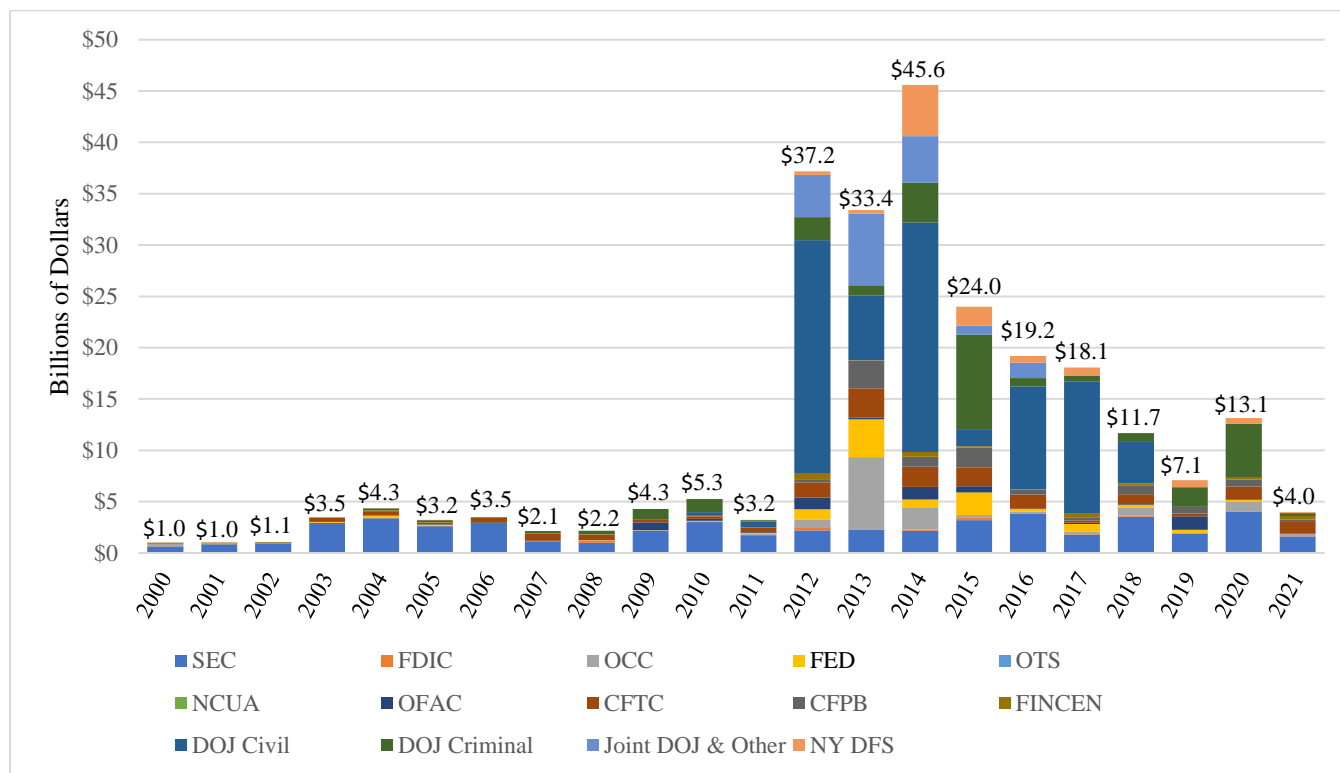
There were 1,061 enforcement actions in 2021, which represents a +2% increase from the prior year and a -54% decline from the post-financial crisis peak. Consistent with prior years, the SEC is the agency with the highest number of cases (71% of the total), and it is followed by the FDIC (11%), CFTC (8%), OCC (4%), and Fed (3%), which together represented most remaining cases.

<sup>3</sup> OFAC is excluded from the figure because in the early 2000’s, OFAC brought a significant number of cases involving de minimus financial penalties against individuals for activities such as travelling illegally to Cuba, which are outside of the scope of our focus on capital markets and the financial system.

Monetary Sanctions

Figure 2 shows the aggregate sum of monetary sanctions ordered to be paid by the agencies identified in the graph’s legend.<sup>4</sup>

**Figure 2: Total Monetary Sanctions**  
(Billions of Dollars)



Covered enforcement agencies imposed \$4.0 billion in total monetary penalties in 2021, which is a -69% decrease from the prior year and a -91% decline from the post-financial crisis peak. The decrease from 2020 to 2021 is partly attributable to the sharp fall in large outlier monetary sanctions: whereas there were three sanctions over \$1 billion or more in 2020 that together accounted for \$5 billion, there were no sanctions over \$1 billion in 2021, and the largest single sanction was \$572 million. Nevertheless, a small number of actions continue to represent most monetary sanctions, even if that disparity is less pronounced than last year. For example, whereas the 10% of actions with the largest monetary sanctions made up 95% of total monetary sanctions imposed in 2020, they represented 91% of total monetary sanctions imposed in 2021.

<sup>4</sup> The “Joint DOJ & Other” amounts are comprised of amounts awarded to states or other agencies as part of a simultaneous settlement of claims against the defendant with the DOJ. To avoid double counting, amounts are not included in that category if already captured in the data for another agency identified in the legend.

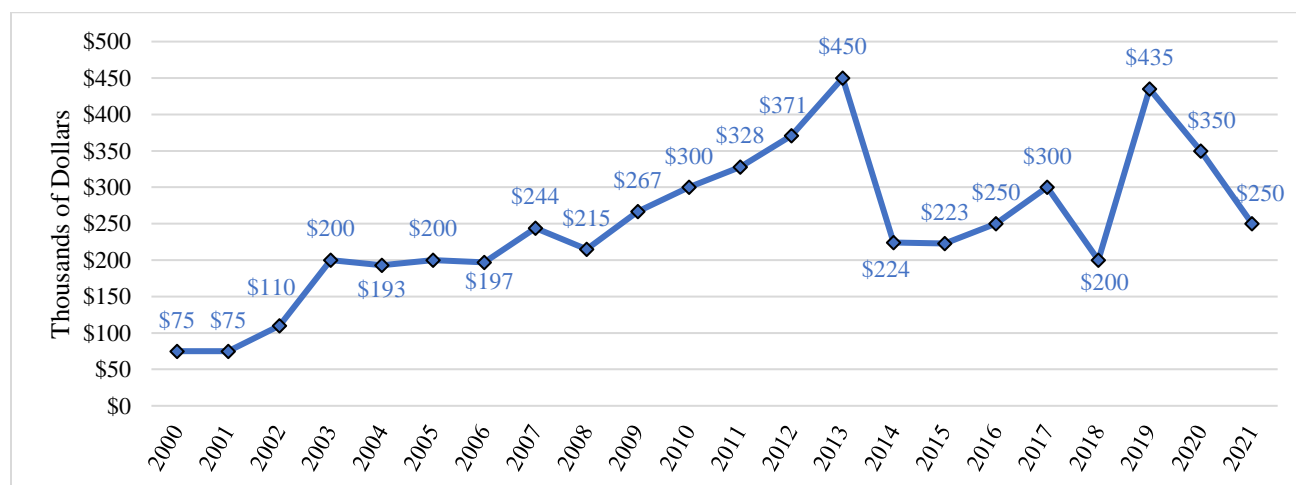
*Median Sanctions*

In addition to aggregate data, the Enforcement Report explored the median and mean monetary sanctions imposed by capital markets regulators,<sup>5</sup> bank regulators,<sup>6</sup> and DOJ civil and criminal actions against financial institutions.<sup>7</sup> **Figure 3** shows the median sanction against defendants in instances where a monetary sanction was imposed. Median sanctions are useful to analyze because they are not affected by outlier cases with extremely large penalties.

In 2021, median monetary sanctions fell across the board. Among capital markets regulators, median sanctions were \$250,000, which represents a -29% decline from the prior year and a -44% decrease from their 2013 peak.<sup>8</sup> Among bank regulators, median sanctions were \$105,000, which is a -47% from the exceptionally high level in 2020 but still +320% above their previous 2013 peak. This median remains elevated because, compared to pre-2019 trends: the number of *small* monetary penalties (that would pull down the median) has fallen sharply;<sup>9</sup> and the size of monetary penalties imposed overall, particularly on entity defendants, is still considerably elevated.<sup>10</sup> For DOJ criminal and civil actions, median sanctions were \$22,000,000, which is a -80% decline from the prior year and down -93% from their 2014 peak.

**Figure 3: Median Monetary Sanctions**  
(Thousands of Dollars)

Panel A: Capital Markets Regulators Median Monetary Sanctions (\$ thousands)



<sup>5</sup> “Capital markets regulators” means the SEC and CFTC.

<sup>6</sup> “Bank regulators” means the CFPB, FDIC, Fed, NCUA, OCC, and OTS.

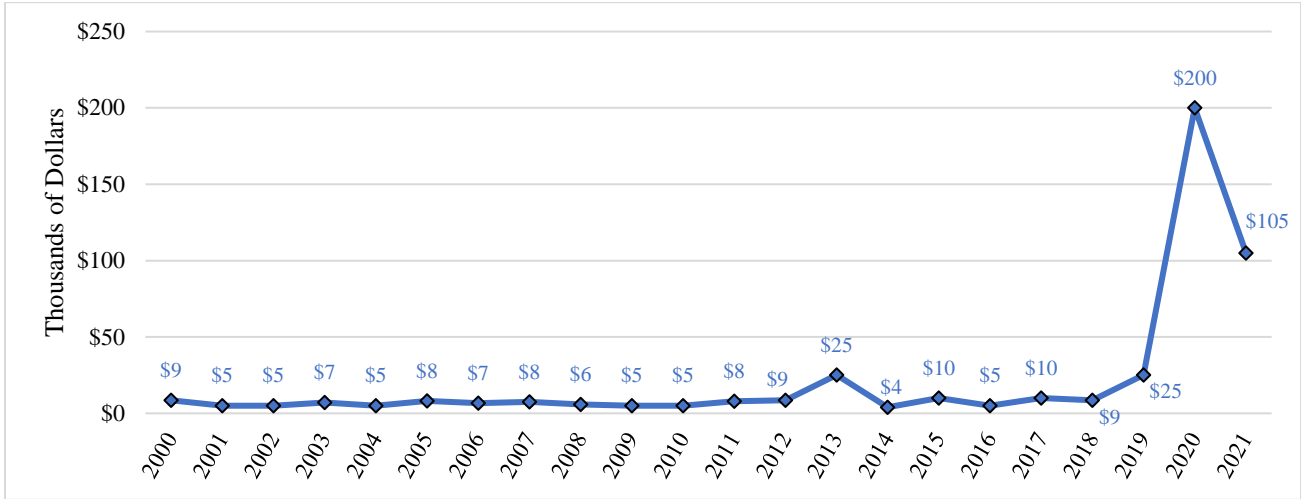
<sup>7</sup> The DOJ actions include: (i) all criminal actions against financial institutions (as compiled by the University of Virginia’s Corporate Prosecution Registry); and (ii) both civil actions involving the fifty largest U.S. banks and civil actions against financial institutions under the False Claims Act and the Financial Institutions Reform, Recovery and Enforcement Act.

<sup>8</sup> This year-over-year increase is consistent with the SEC’s Annual Enforcement Report, which covers the fiscal year ended September 31, 2019, and which also shows a substantial increase in “median money ordered by action” from fiscal year 2018 to fiscal year 2019. SEC actions make up the overwhelming majority of enforcement actions by capital markets regulators. U.S. SEC. & EXCH. COMM’N, *Division of Enforcement: 2019 Annual Report*, 16 (2020), <https://www.sec.gov/files/enforcement-annual-report-2019.pdf>.

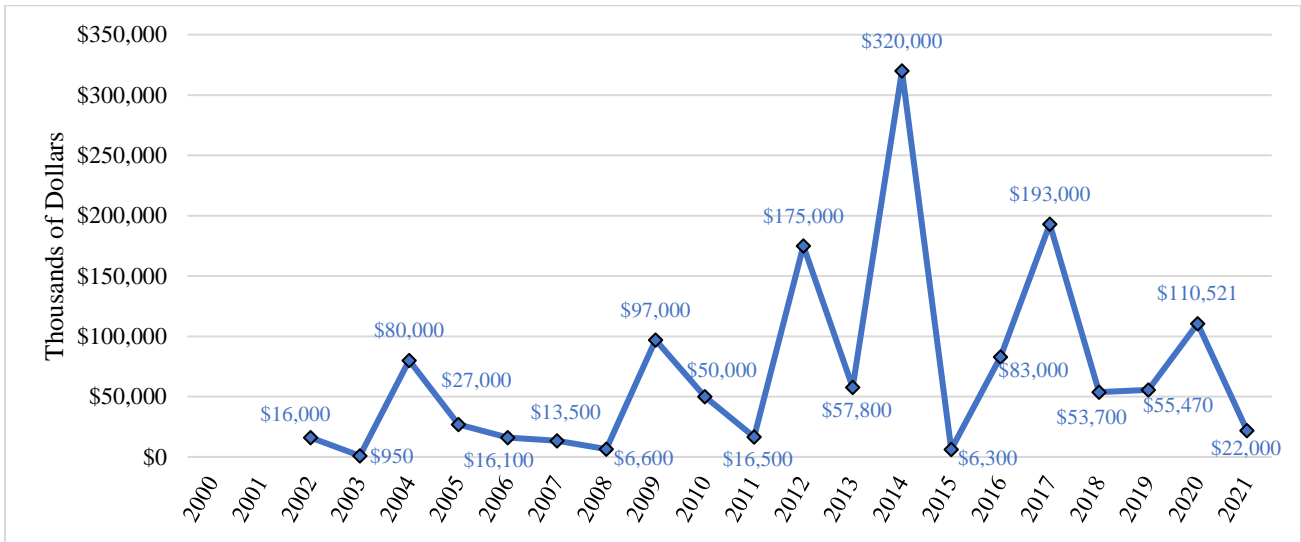
<sup>9</sup> For example, whereas the NCUA imposed 18 small monetary penalties on late filers totaling \$9,730 in 2019, the NCUA imposed no monetary penalties at all in 2020 or 2021.

<sup>10</sup> For example, looking at the size of penalties imposed by bank regulators on *entity defendants*, the 25<sup>th</sup> quartile rose from \$782 in 2019 to \$15,969 in 2021, the 50<sup>th</sup> quartile rose from \$28,966 in 2019 to \$404,459 in 2021, and the 75<sup>th</sup> quartile rose from \$331,250 in 2019 to \$3,715,000 in 2021.

Panel B: Bank Regulators Median Monetary Sanctions (\$ thousands)



Panel C: DOJ Criminal and Civil Median Monetary Sanctions (\$ thousands)

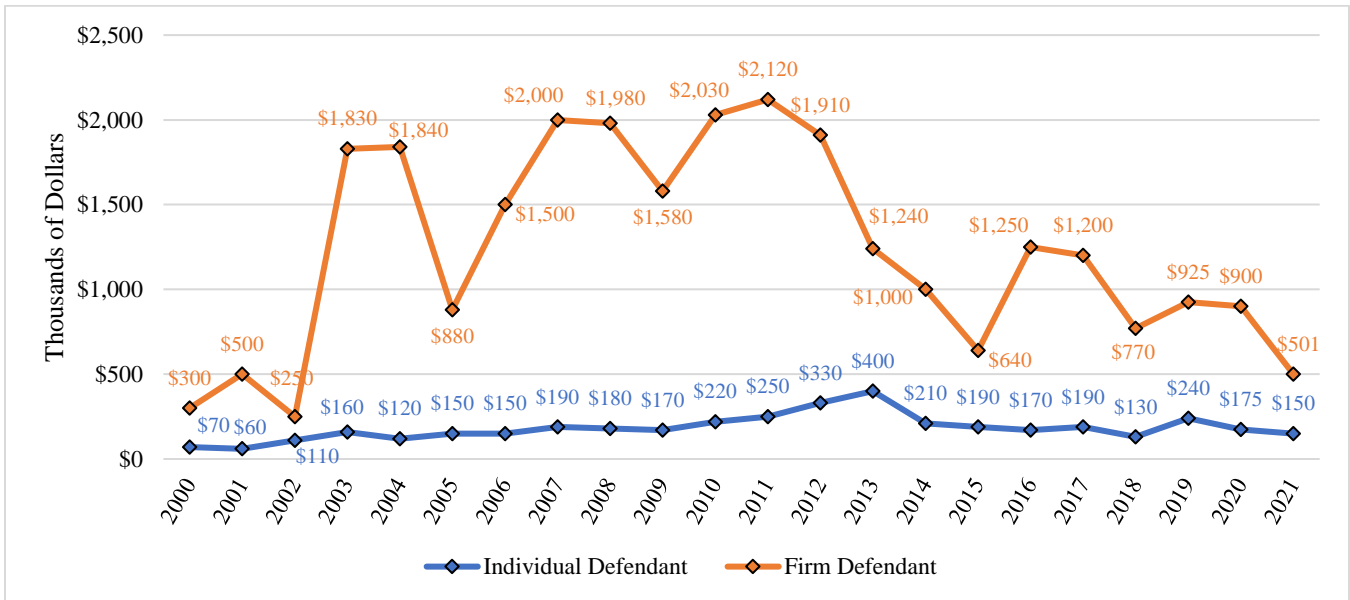


Median Sanctions on Individuals and Firms

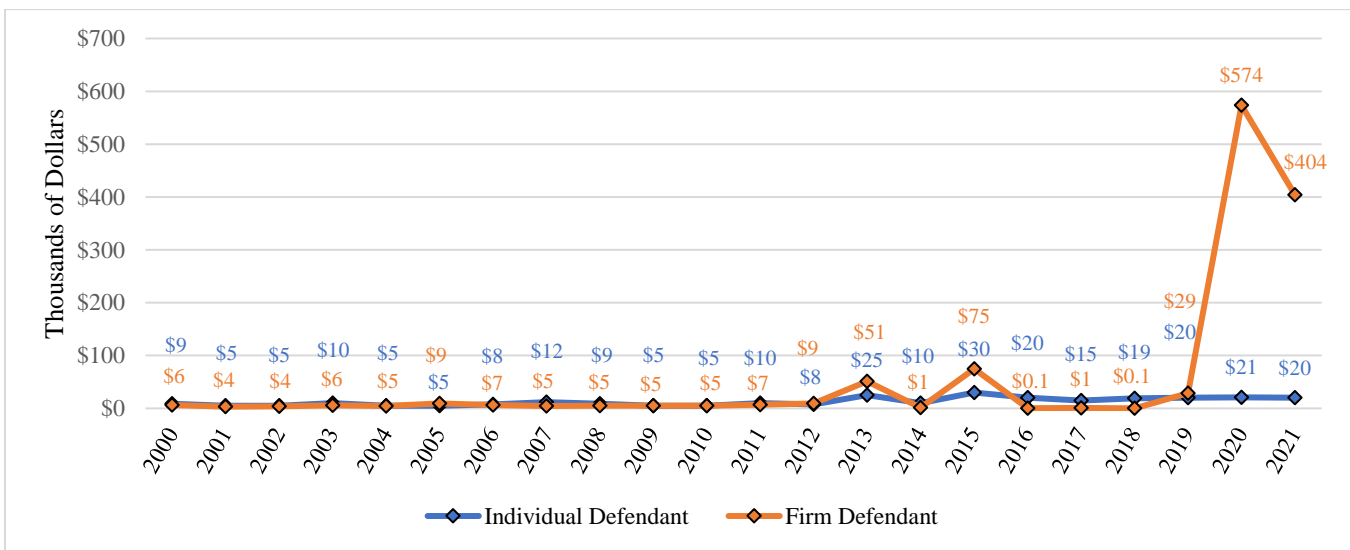
Figure 4 shows the median monetary sanctions imposed against firm and individual defendants by capital markets regulators and bank regulators.<sup>11</sup> Median sanctions generally fell but remained within historical ranges, except penalties imposed by bank regulators on entity defendants remain elevated.

**Figure 4: Median Individual- and Firm-Defendant Monetary Sanctions**  
(Thousands of Dollars)

Panel A: Capital Markets Regulators Median Monetary Sanctions (\$ thousands)



Panel B: Bank Regulators Median Monetary Sanctions (\$ thousands)



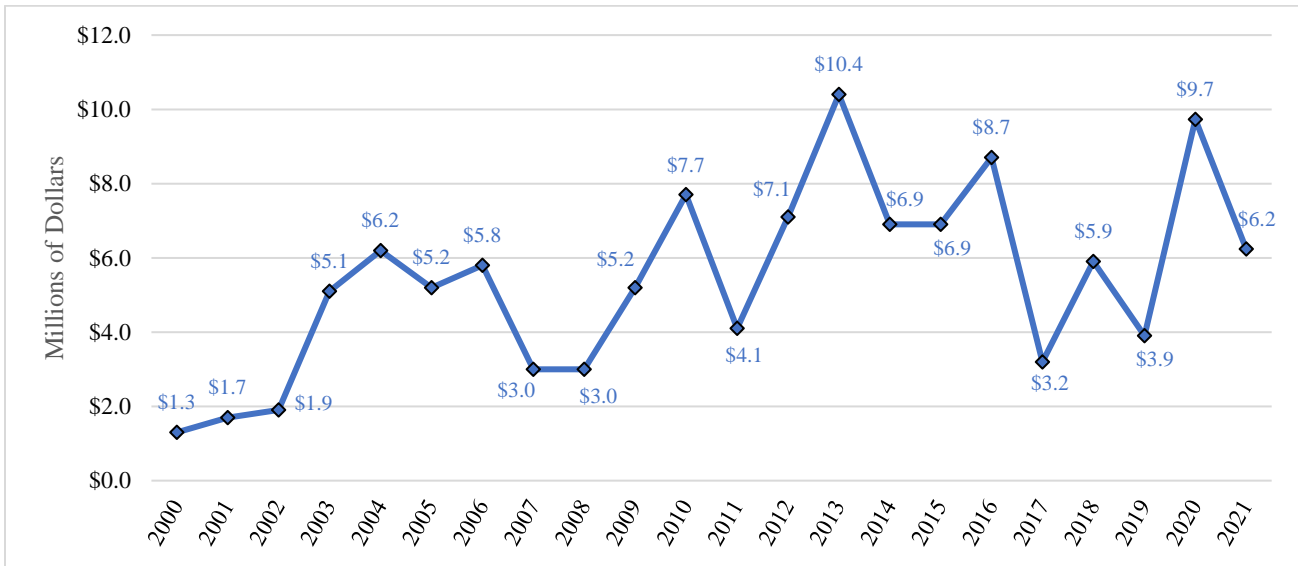
<sup>11</sup> The staff's data on DOJ cases is limited to cases against institutions and therefore we cannot compare firms versus individual monetary sanctions for DOJ cases.

Mean Sanctions

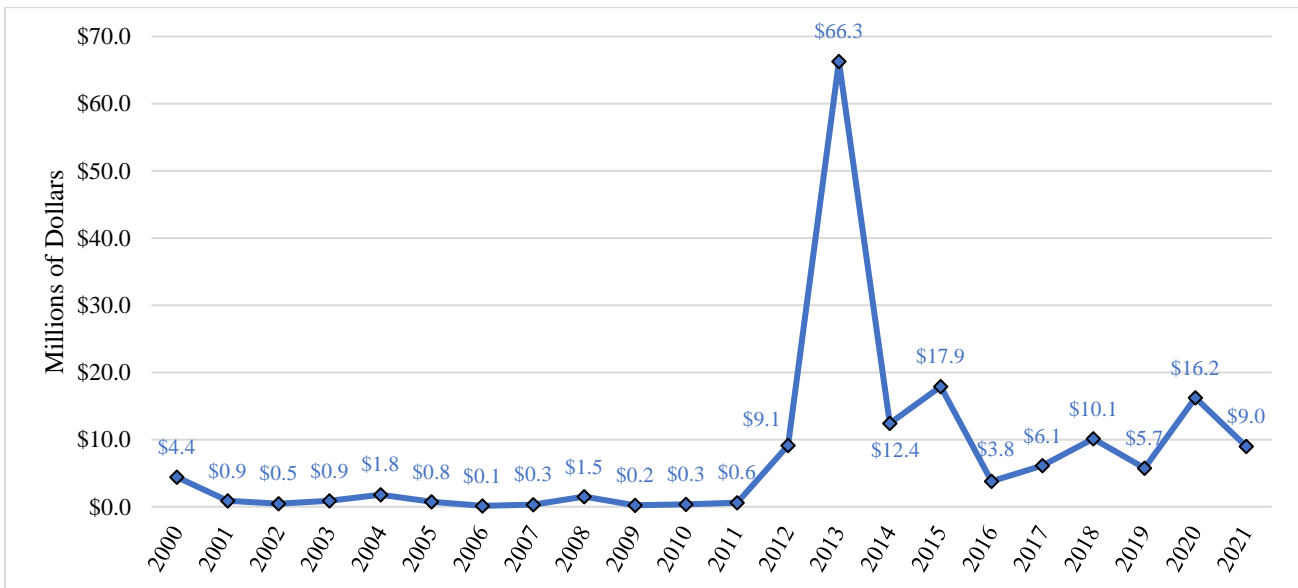
**Figure 5** presents the mean monetary sanction against all defendants. In 2021, among capital markets regulators, mean sanctions were \$6.2 million, which represents a -36% decline from the prior year. Among bank regulators, mean sanctions were \$9.0 million, a -45% increase from the prior year.

**Figure 5: Mean Monetary Sanctions**  
(Millions of Dollars)

Panel A: Capital Markets Regulators Mean Monetary Sanctions (\$ millions)



Panel B: Bank Regulators Mean Monetary Sanctions (\$ millions)

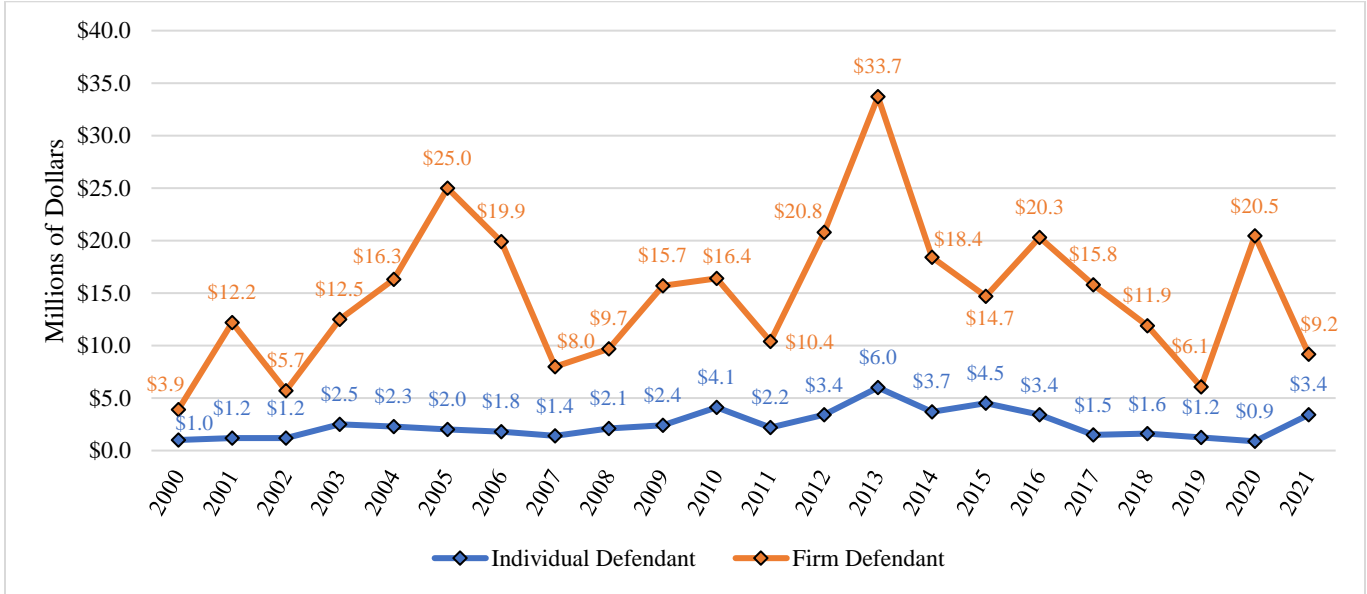


Mean Sanctions on Individuals and Firms

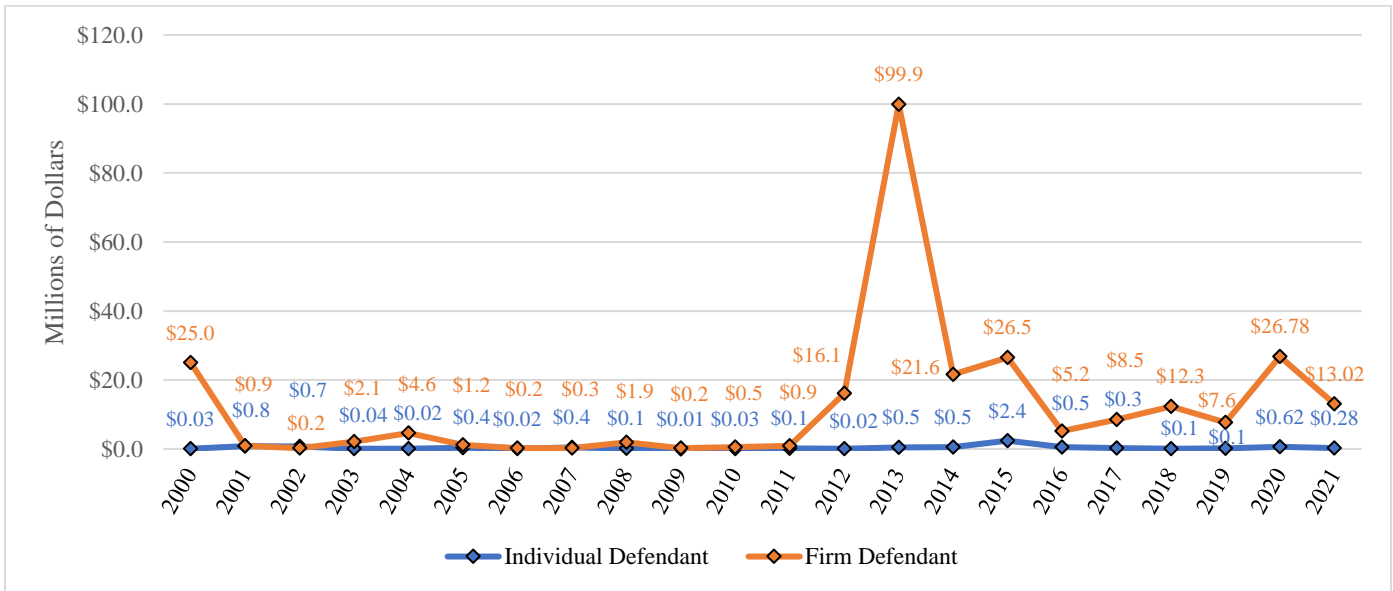
Figure 6 presents the mean monetary sanctions for individual and firm defendants imposed by capital markets and bank regulators, which remain within historical ranges.

**Figure 6: Mean Individual- and Firm-Defendant Monetary Sanctions**  
(Millions of Dollars)

Panel A: Capital Markets Regulators Mean Monetary Sanctions (\$ millions)



Panel B: Bank Regulators Mean Monetary Sanctions (\$ millions)





## **Conclusion**

Overall, the enforcement data for 2021 show that, after fluctuating within a stable range from 2012 to 2019, the total number of enforcement actions fell with the onset of the pandemic in 2020 and remained near its post-financial crisis low in 2021. Meanwhile, after rising sharply in 2020, total monetary sanctions resumed their post-financial crisis decline in 2021 and are now at the lowest level since 2011. This reflects partly a sharp fall in the number of large outlier sanctions and partly a general decline in the average value of sanctions imposed. Although mean and median monetary sanctions declined across the board in 2021, they remain within historical ranges.