

## Enforcement Data for Calendar 2022

Released November 9, 2023

### 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 after 2014-2015. 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 2022.

### Key Takeaways:

- The Total Number of Enforcement Actions rose by 88 (or +8.3%) from 2021 to 2022, and this can be attributed entirely to the increase in SEC enforcement actions.
- The Total Amount of Monetary Sanctions rose by \$7.8 billion (or +197%) from 2021 to 2022, and this can be attributed primarily to one \$3.7 billion sanction imposed by the CFPB and a \$3.3 billion increase in sanctions imposed by the SEC.

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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**”).

### Summary of Findings:

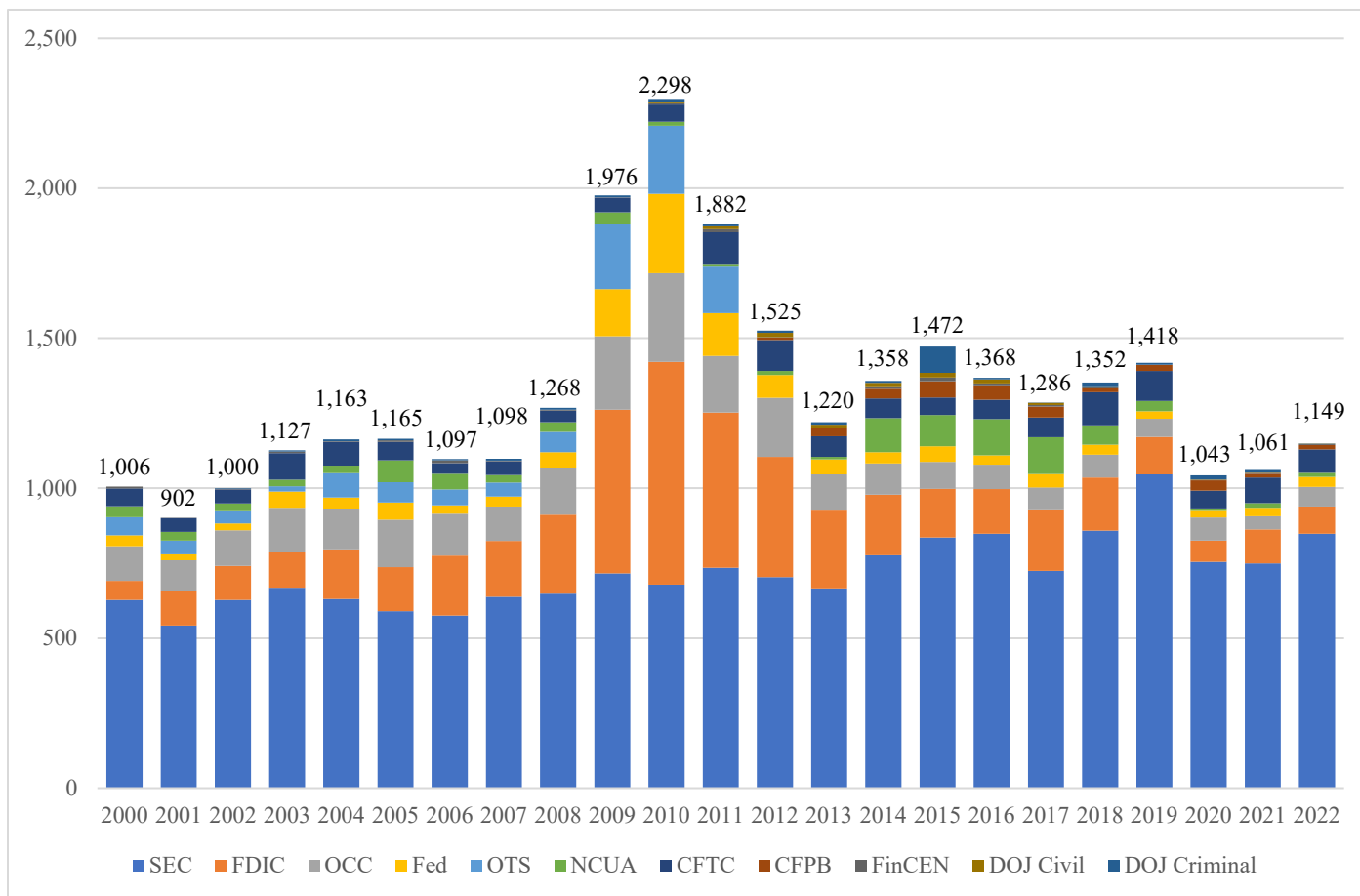
- Total Enforcement Actions fluctuated within a relatively stable range from 2012 to 2019, then fell during the 2020-2021 pandemic period, and then rebounded modestly from 1,061 (in 2021) to 1,149 (in 2022). However, total enforcement actions **remain below the pre-pandemic range**.
  - Among capital markets regulators, total enforcement actions rose from 835 (in 2021) to 927 (in 2022), driven entirely by an increase in SEC actions, whereas CFTC actions fell slightly.
  - Among banking regulators, total enforcement actions were roughly flat at 213 (in 2021) and 217 (in 2022).
  
- Total Monetary Sanctions rose from \$4.0 billion (in 2021) to \$11.8 billion (in 2022). Since 2018, total monetary sanctions **have been relatively volatile**, depending on whether there have been large outlier sanctions in any given year. Consistent with this picture, sanctions were generally up in years with large outlier penalties (including 2020 and 2022) and down in years with fewer such penalties (2019 and 2021).
  - Among capital markets regulators, total monetary sanctions rose dramatically from \$2.8 billion (in 2021) to \$7.1 billion (in 2022), driven mostly by an increase in SEC sanctions from \$1.6 billion (in 2021) to a record high \$4.9 billion (in 2022).
  - Among banking regulators, total monetary sanctions also rose sharply from \$0.4 billion (in 2021) to \$4.2 billion (in 2022), but this was driven almost entirely by one \$3.7 billion CFPB sanction discussed below.
  
- Mean and Median Monetary Sanctions:
  - *Among Banking Regulators*, mean sanctions rose from 2021 to 2022 while median sanctions decreased, which suggests that the **size of monetary sanctions generally fell except for one large outlier**: a \$3.7 billion sanction imposed on Wells Fargo by the CFPB.
  - *Among Capital Markets Regulators*, both mean and median sanctions rose from 2021 to 2022, which indicates that **the size of monetary sanctions rose across the board**. At the SEC, mean sanctions rose from \$4.073 million (in 2021) to \$11.603 million (in 2022), and median sanctions rose from \$0.205 million (in 2021) to \$0.376 million (in 2022).

**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 2022.<sup>3</sup>

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



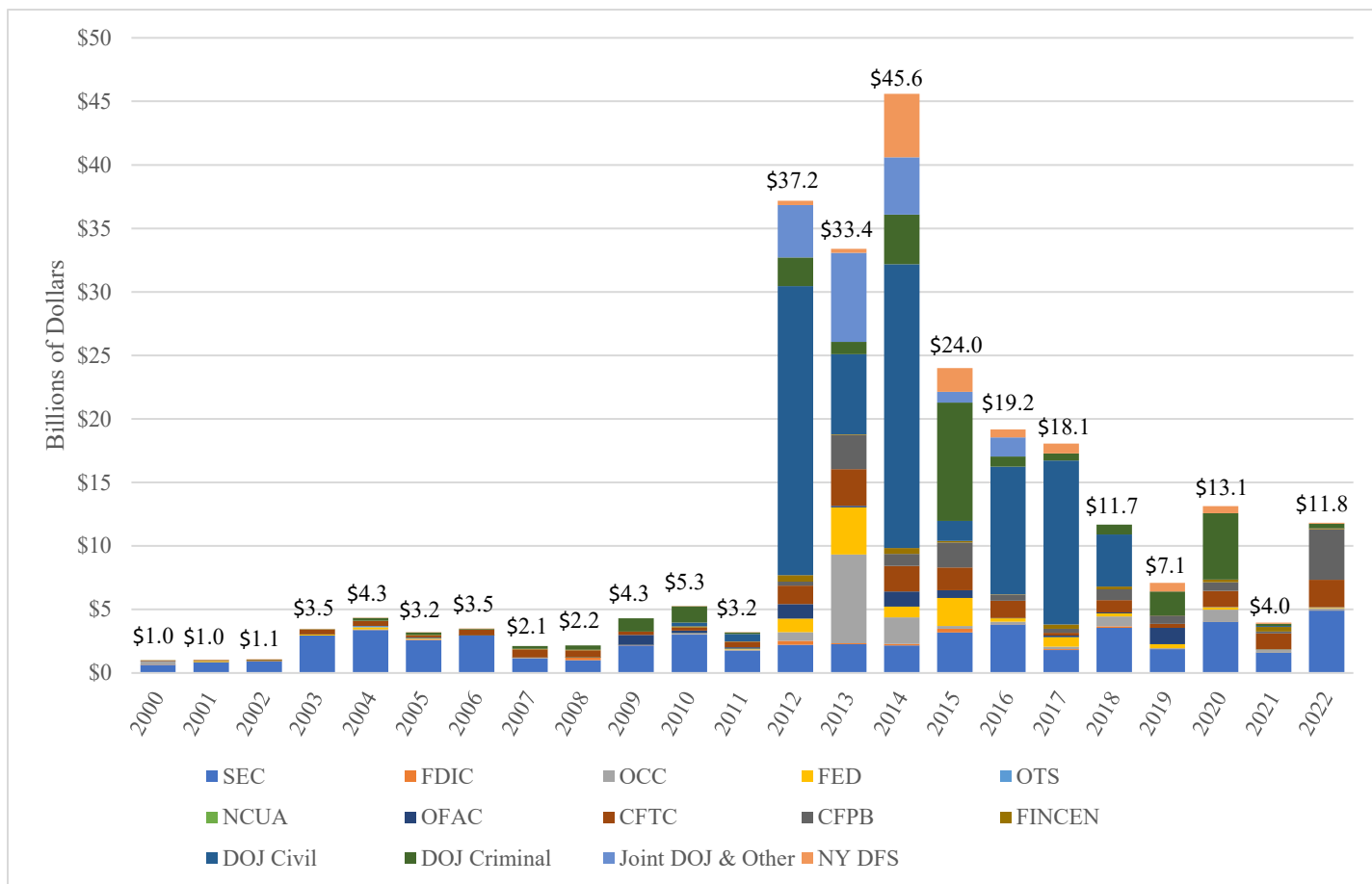
There were 1,149 enforcement actions in 2022, which represents a +8.3% increase from the prior year but a -50.0% decline from the post-financial crisis peak. Consistent with prior years, the SEC is the agency with the highest number of cases (74% of the total), and it is followed by the FDIC (8%), CFTC (7%), OCC (6%), 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 minimis 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 \$11.8 billion in total monetary penalties in 2022, which is a +197% increase from the prior year but still -74% below the post-financial crisis peak. The increase from 2021 to 2022 is partly attributable to an uptick in large outlier monetary sanctions: whereas there were no single sanctions over \$1 billion or more in 2021, there were three such single sanctions in 2022 that together accounted for nearly \$6 billion:

- The CFPB imposed a \$3.7 billion monetary sanction on Wells Fargo Bank for alleged unfair practices related to auto loan servicing, mortgage loan modifications, and deposit accounts.
- The CFTC imposed a \$1.19 billion monetary sanction on Glencore for alleged manipulation of commodities benchmarks and foreign bribery payments.

<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.

- The SEC imposed a \$1.02 billion monetary sanction on Allianz for allegedly misleading disclosures concerning the trading strategies of several of its private funds.
- In addition to the three large *individual* sanctions listed above, the SEC also imposed a collective \$1.1 billion in monetary sanctions on 16 different financial institutions for the use of off-channel communication methods such as text messaging.<sup>5</sup>

Excluding these large and unusual outliers, total monetary sanctions across all agencies in 2022 would have been \$4.8 billion, which is a +20% increase over the prior year.

Consistent with prior years, a small number of actions continue to represent most monetary sanctions, and that trend is more pronounced compared to last year last year. For example, whereas 10% of the actions with the largest monetary sanctions accounted for 91% of total monetary sanctions imposed in 2021, they represented 97% of total monetary sanctions imposed in 2022.

In addition to aggregate data, the Enforcement Report explored the median and mean monetary sanctions imposed by capital markets regulators,<sup>6</sup> bank regulators,<sup>7</sup> and DOJ civil and criminal actions against financial institutions.<sup>8</sup> This data appears on subsequent pages.

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<sup>5</sup> See U.S. SEC. & EXCH. COMM’N, *SEC Charges 16 Wall Street Firms with Widespread Recordkeeping Failures* (Sept. 27, 2022), <https://www.sec.gov/news/press-release/2022-174>.

<sup>6</sup> “**Capital markets regulators**” means the SEC and CFTC.

<sup>7</sup> “**Bank regulators**” means the CFPB, FDIC, Fed, NCUA, OCC, and OTS.

<sup>8</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.

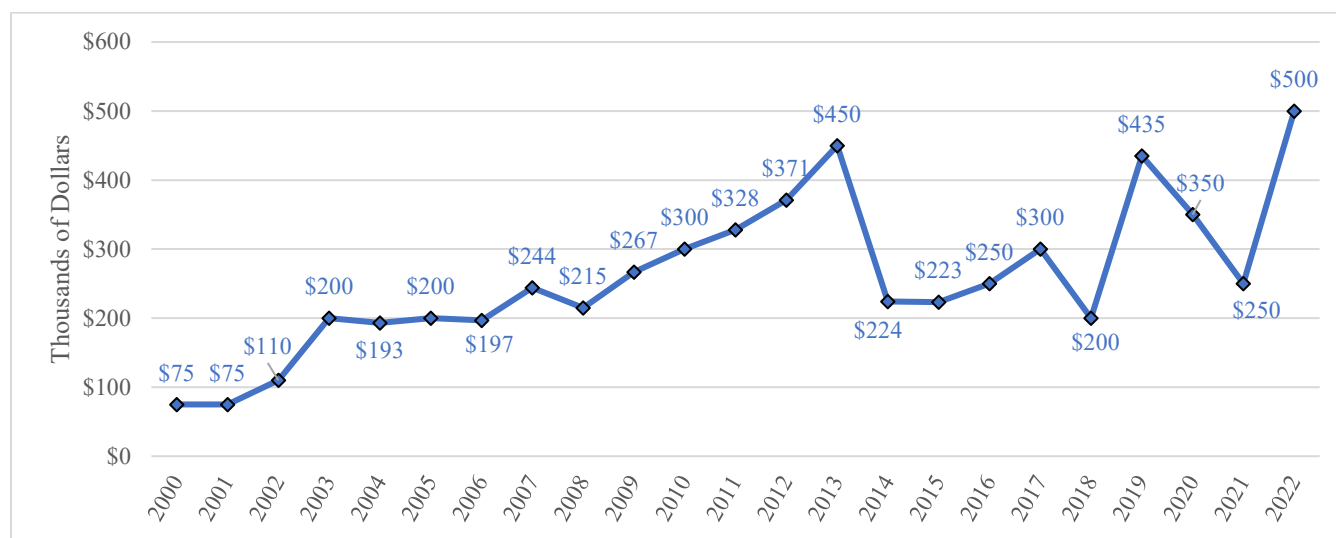
*Median Sanctions*

**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 2022, median monetary sanctions increased for capital markets regulators and the DOJ, but for bank regulators, median monetary sanctions continued their decline back to the normal range after a temporary spike in 2020-2021. Among capital markets regulators, median sanctions reached a new high of \$500,000, which represents a +100% increase from the prior year and an +11% increase over their peak in 2013.<sup>9</sup> Among bank regulators, median sanctions were \$25,000, which is down -76% from the prior year and -88% off the exceptional peak in 2020.<sup>10</sup> For DOJ criminal and civil actions, median sanctions were \$170,626,000, which is a considerable increase from the prior year but below the historical peak, in each case consistent with the historical volatility of this figure.

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

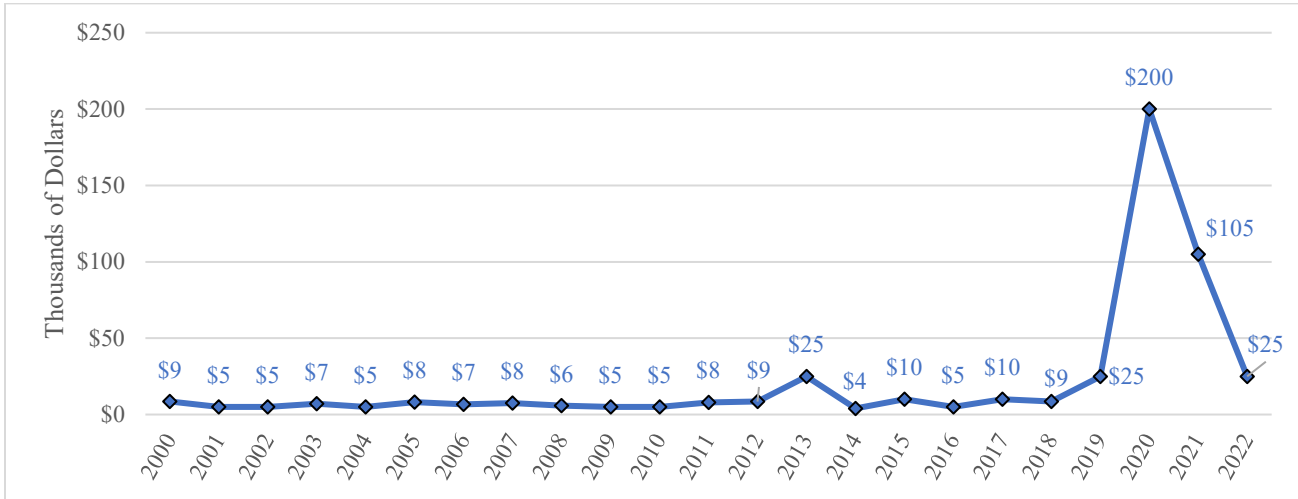
Panel A: Capital Markets Regulators Median Monetary Sanctions (\$ thousands)



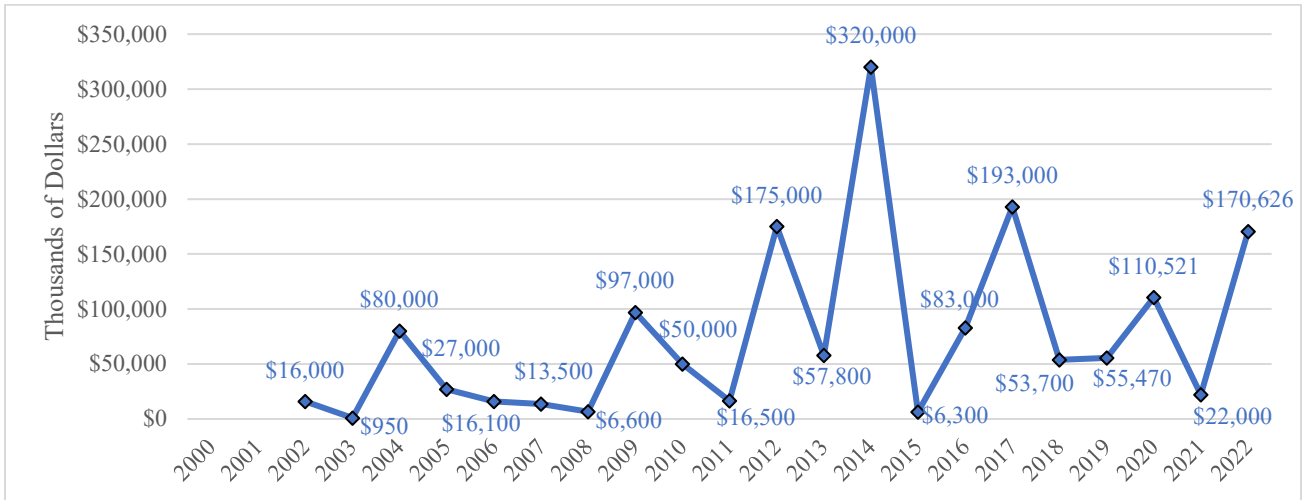
<sup>9</sup> This year-over-year increase is consistent with the SEC’s Annual Enforcement Report, which covers the fiscal year ended September 31, 2019, and which also shows a substantial increase in “median money ordered by action” from fiscal year 2018 to fiscal year 2019. SEC actions make up the overwhelming 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>10</sup> For example, the median penalty imposed by bank regulators on entity defendants increased from \$29,000 in 2019 to \$574,000 in 2020 and \$404,000 in 2021. In 2022, that figure fell to \$321,000 but still remains above historical norms.

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



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

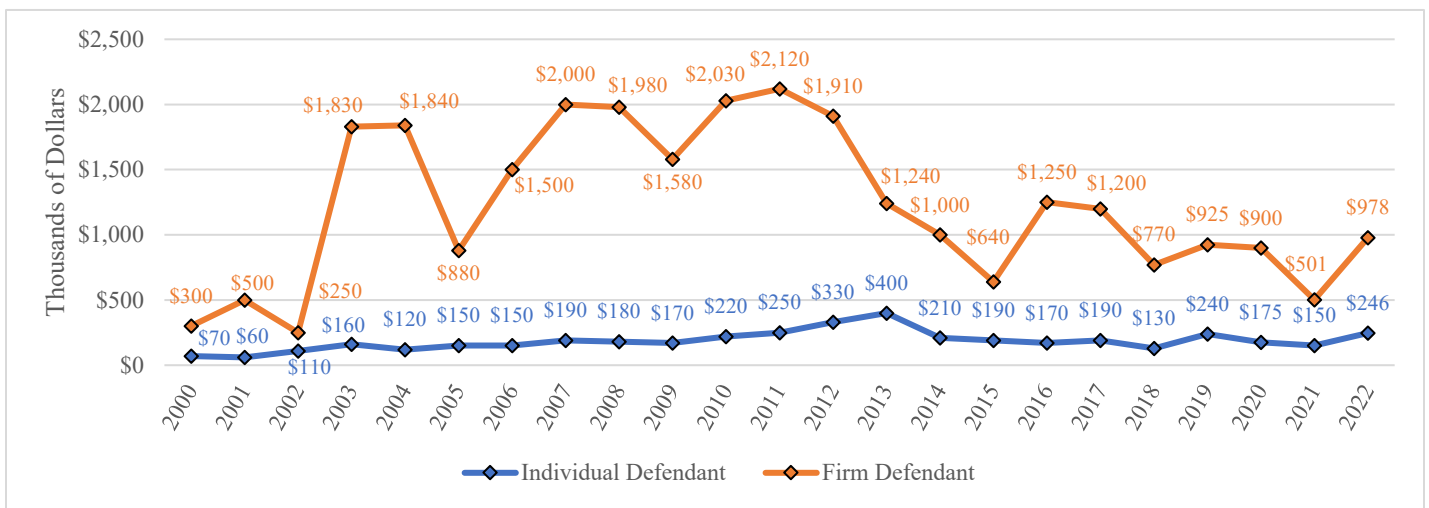


Median Sanctions on Individuals and Firms

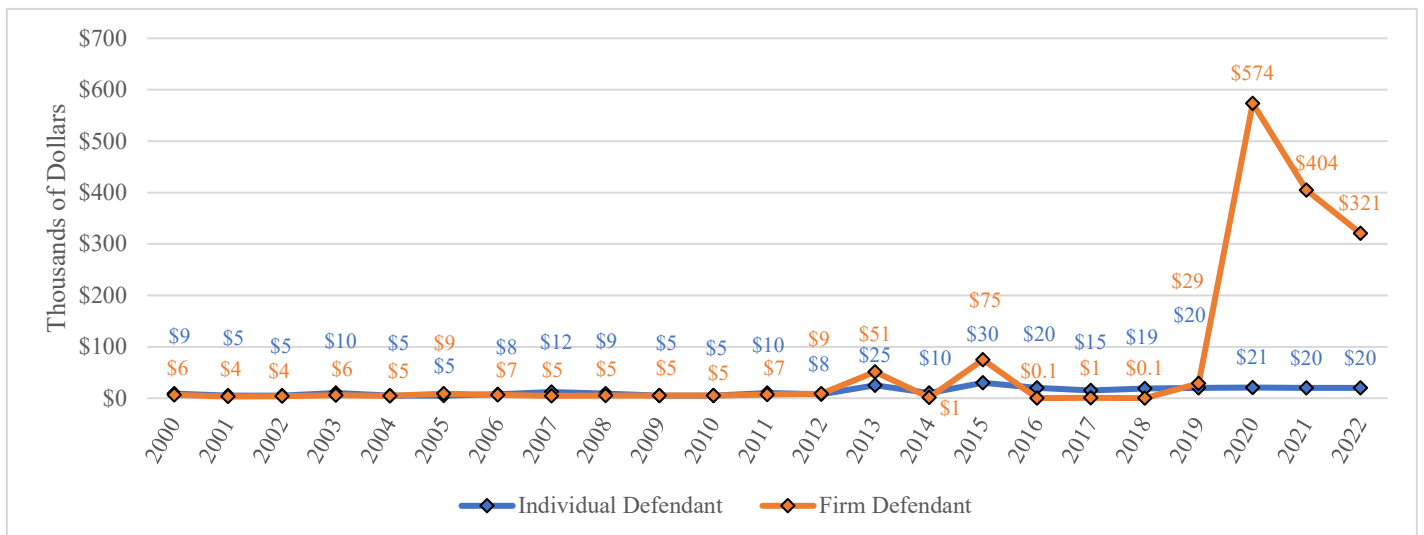
Figure 4 shows the median monetary sanctions imposed against firm and individual defendants by capital markets regulators and bank regulators.<sup>11</sup> These figures remain within their historical ranges, except for the median sanction imposed on entities by bank regulators, which continues to decline from the unusually high peak in 2020. This figure has remained elevated since 2020 partly due to lasting decrease in the number of small sanctions that would otherwise bring down the median.<sup>12</sup>

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.

<sup>12</sup> For example, whereas the NCUA imposed 18 small monetary sanctions on late filers totaling \$9,730 in 2019, the NCUA has imposed no such small monetary sanctions in subsequent years.

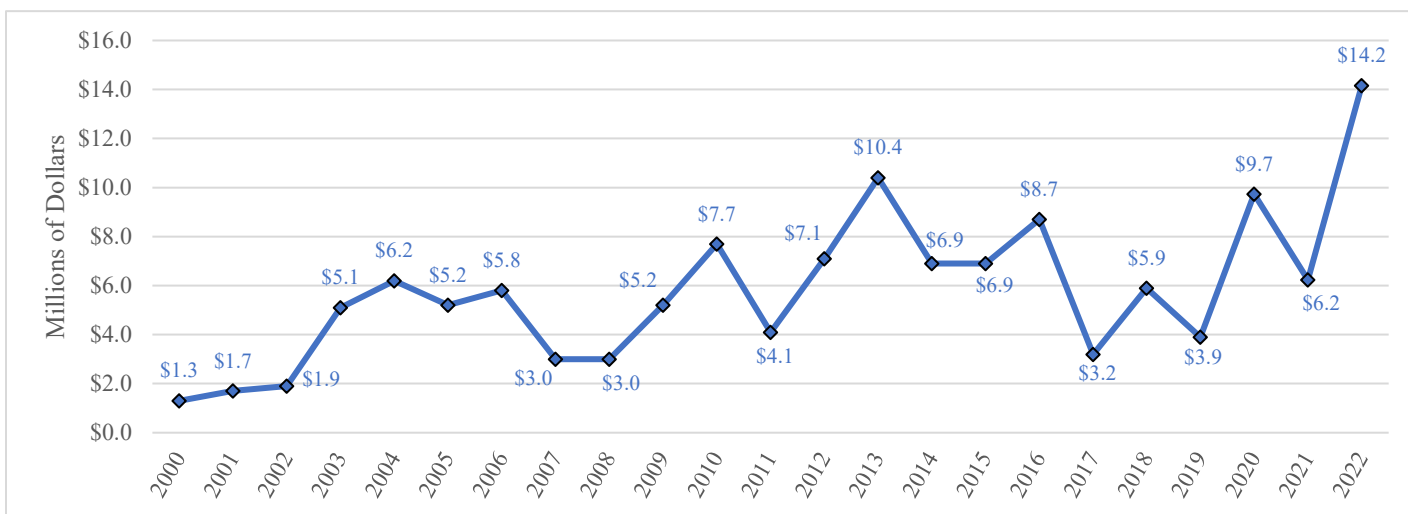


Mean Sanctions

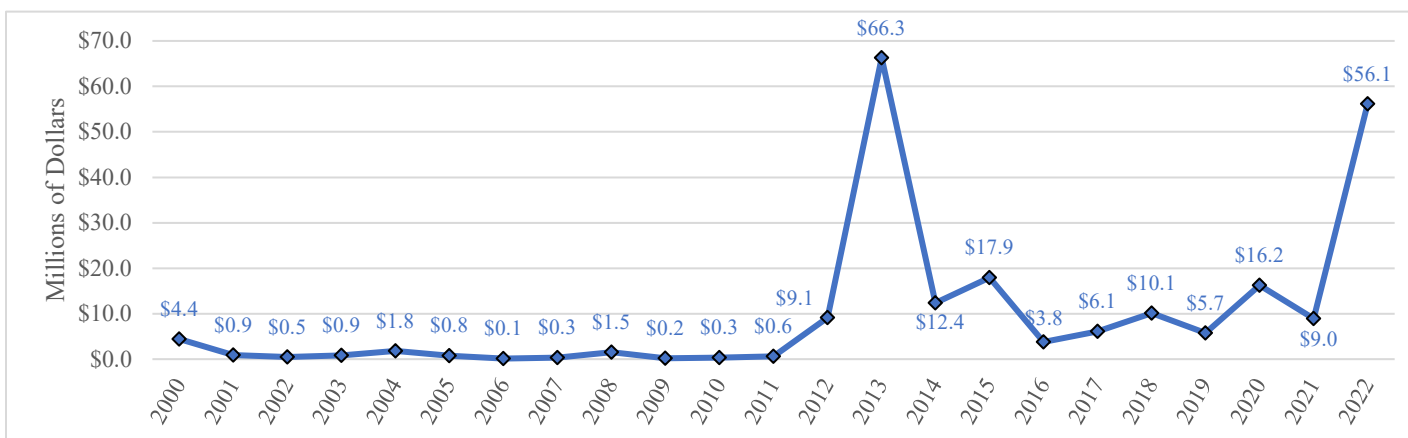
**Figure 5** presents the mean monetary sanction against all defendants. In 2022, among capital markets regulators, mean sanctions were \$14.2 million, which represents a +127% increase from the prior year and a new all-time high, up +36% from the last peak in 2013. This increase is attributable largely to a sharp rise in large outlier sanctions imposed by the SEC. For example, whereas the SEC imposed three sanctions over \$100 million in 2021, the SEC imposed eighteen such sanctions over \$100 million in 2022; and of those, eight were imposed on entities for the use of off-channel communication methods such as text messaging. Among bank regulators, mean sanctions were \$56.1 million, a +527% increase from the prior year and only -15% off the 2013 peak. This increase is partly attributable to the CFPB imposing one \$3.7 billion monetary sanction on Wells Fargo Bank, N.A. for practices related to auto loan servicing, mortgage loan modifications, and deposit accounts.

**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)

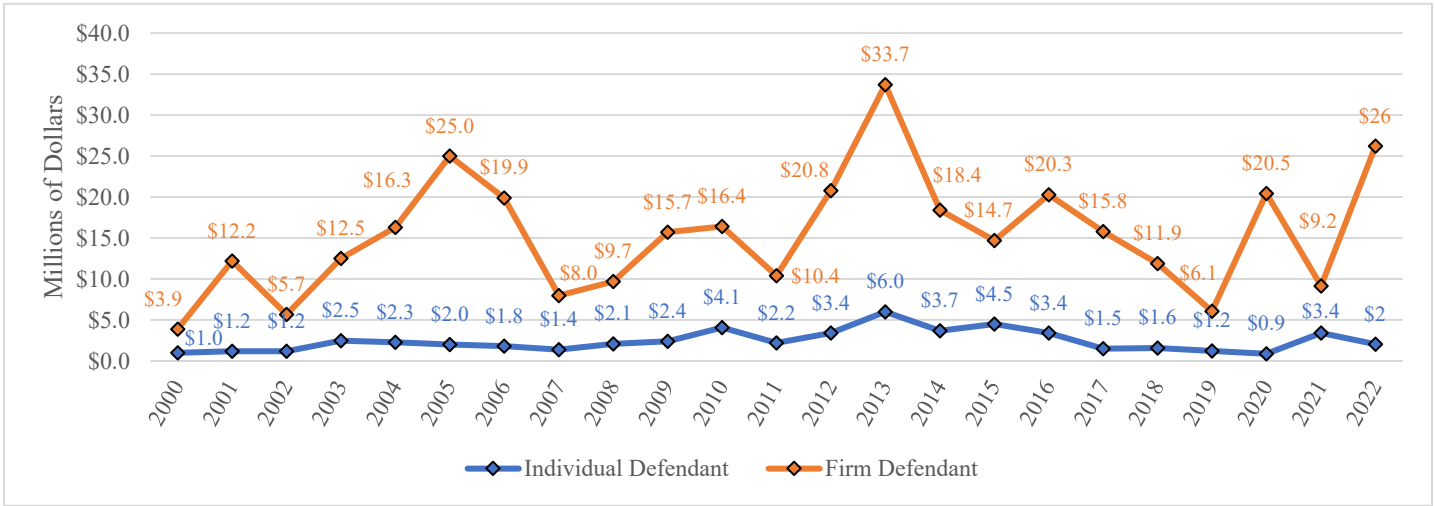


Mean Sanctions on Individuals and Firms

Figure 6 presents the mean monetary sanctions for individual and firm defendants imposed by capital markets and bank regulators. In both cases, sanctions imposed on individuals remain within their normal historical ranges, whereas sanctions imposed on entities have risen to at or near all-time highs.

**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)

