Enforcement Data for Calendar 2023

Released October 13, 2024

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**").[1] The Enforcement Report comprehensively overviewed and assessed the public enforcement system for the U.S. financial system, including its structure, how 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,[2] 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 the 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 these 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 2023 and, for the first time, adds historical data on FINRA enforcement actions.

Key Takeaways:

- The Total Number of Enforcement Actions fell by 7 (or -0.6%) from 2022 to 2023, and this decline can be primarily attributed to a decrease in Federal Reserve enforcement actions (down from 33 to 14).
- The Total Amount of Monetary Sanctions rose by $8.3 billion (or +70.3%) from 2022 to 2023, and this decline can be attributed to the increases in OFAC, CFTC, and DOJ criminal sanctions.

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

[2] Data on enforcement actions were collected 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. Despite a slight rebound last year (from 1,061 in 2021 to 1,149 in 2022), total enforcement actions **remain below the pre-pandemic range** (1,142 in 2023 compared to 1,418 in 2019).
  - Among capital markets regulators, total enforcement actions remained constant at 927 (in 2022 and 2023), with SEC actions increasing by 6 and CFTC actions falling by 6.
  - Among banking regulators, total enforcement actions fell slightly, from 217 (in 2022) to 206 (in 2023).

- Total Monetary Sanctions rose from $11.8 billion (in 2022) to $20.1 billion (in 2023). Since 2018, total monetary sanctions **have been relatively volatile**, depending on outlier sanctions in any given year. Consistent with this picture, sanctions were generally up in years with large outlier penalties (including 2020, 2022, and 2023) and down in years with fewer such penalties (2019 and 2021).
  - Among capital markets regulators, total monetary sanctions rose dramatically from $7.1 billion (in 2022) to $11.1 billion (in 2023), which stemmed from a steep increase in CFTC sanctions (from $2.1 billion in 2022 to $9.1 billion in 2023) that offset a sharp decline in SEC sanctions (from a record high $4.9 billion in 2022 to $2.0 billion in 2023).
  - Among banking regulators, total monetary sanctions fell sharply from $4.2 billion (in 2022) to $0.6 billion (in 2023), which was more in line with historical averages, as 2022 was inflated by one $3.7 billion CFPB sanction.

- Mean and Median Monetary Sanctions:
  - Among banking regulators, mean sanctions fell from 2022 to 2023 while median sanctions hit a record high, which stemmed from the CFPB's replacement of one large outlier (a $3.7 billion sanction) with multiple sanctions above $1 million. This appears to be part of a trend of increasing activity at the CFPB, with its median sanctions increasing from $500,000 in 2019 to $13,634,536 in 2023.
  - Among capital markets regulators, mean sanctions increased to a record-high $19.1 million (from the previous record of $14.2 million in 2022), while median sanctions fell from 2022 to 2023 ($500,000 in 2022 to $305,000), which stemmed from lower-dollar enforcement actions being offset by a few outlier sanctions, particularly at the CFTC (discussed below).

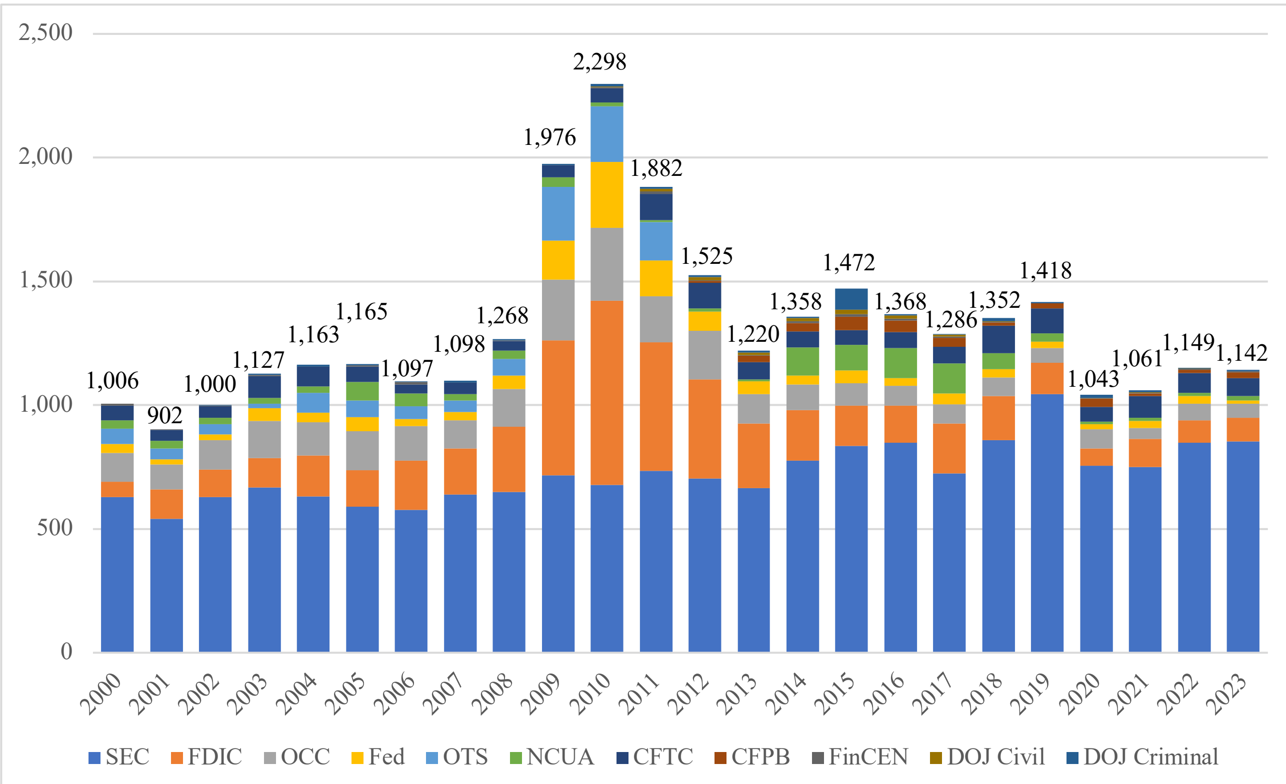
- FINRA Sanctions: For the first time, we have collected top-level FINRA enforcement action data, stemming back to its inception in 2007.
  - *Total Enforcement Actions* fell from 426 (in 2022) to 338 (in 2023), which is a new all-time low.
  - *Total Monetary Sanctions* rose dramatically from $54.5 million (in 2022) to $88.4 million (in 2023).
  - *Mean Monetary Sanctions* also rose dramatically from $127,934 (in 2022) to $261,538 (in 2023), a new all-time high.

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 2023.[3]

Figure 1: Total Number of Enforcement Actions



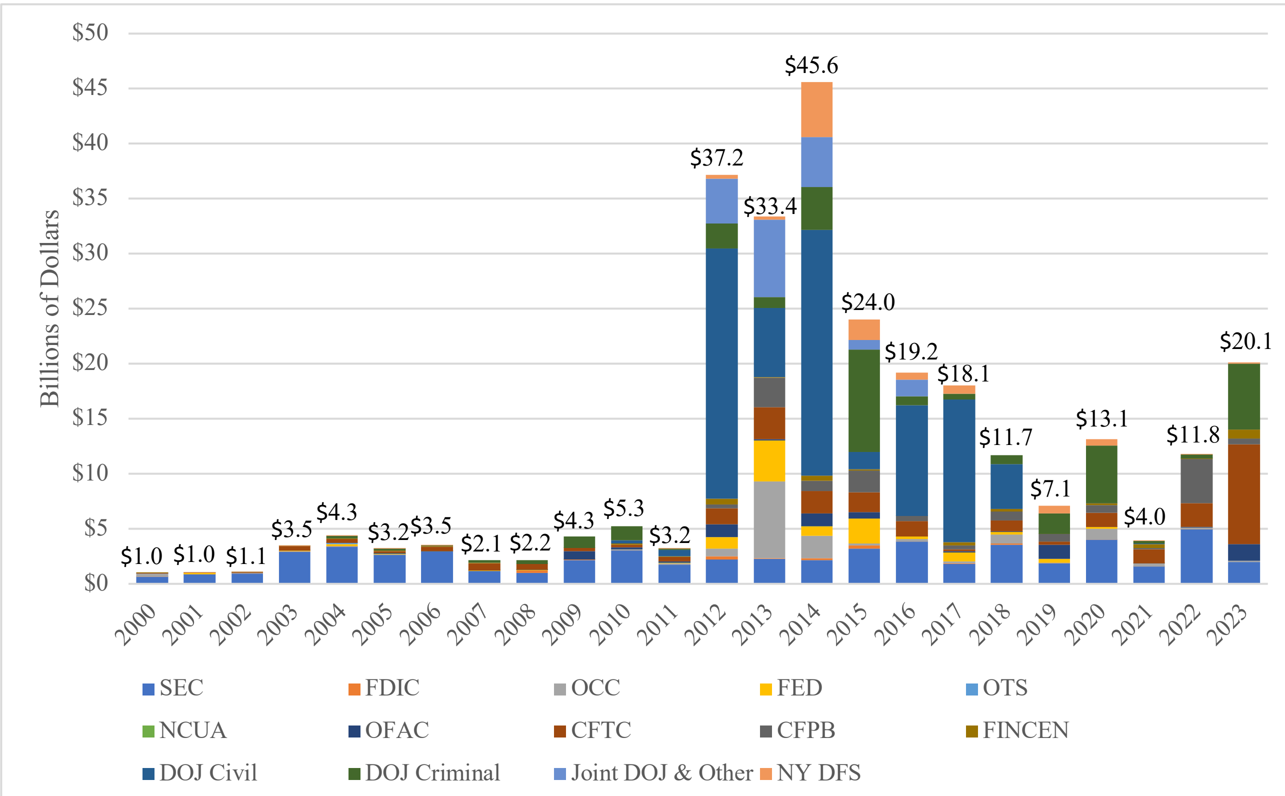
There were 1,142 enforcement actions in 2023, representing a -0.6% decrease from the prior year and a -50.3% decline from the post-financial crisis peak. Consistent with prior years, the SEC is the agency with the highest number of cases (74.8% of the total), followed by the FDIC (8.3%), CFTC (6.4%), OCC (4.9%), CFPB (2.1%), NCUA (1.5%), and Fed (1.2%).

[3] OFAC is excluded from the figure, because in the early 2000s, OFAC brought a significant number of cases involving de minimis financial penalties against individuals for activities such as traveling 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.[4]

Figure 2: Total Monetary Sanctions
(Billions of Dollars)



Covered enforcement agencies imposed $20.1 billion in total monetary penalties in 2023, a +70.3% increase from the prior year but still a -55.9% decrease from the post-financial crisis peak. The increase from 2022 to 2023 is partly attributable to a shift in large outlier monetary sanctions: whereas there were four sanctions over $250 million or more in 2022 that together accounted for over $6 billion, there were eight such sanctions in 2023, including three against Binance-related entities:

- Binance, the cryptocurrency exchange, received $4.4 billion in outlier monetary sanctions from three different regulators:
    - The CFTC imposed $2.7 billion in monetary sanctions on three Binance entities related to their alleged failure to comply with regulatory requirements, such as know your customer ("KYC") procedures;
    - OFAC entered into a settlement agreement with Binance for $968 million connected to alleged violations of multiple sanctions programs; and

[4] The "Joint DOJ & Other" amounts include money 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.

  - FinCEN also settled with Binance for $780 million related to alleged violations of the Bank Secrecy Act.
- The DOJ imposed $5.57 billion in monetary sanctions on Allianz Global Investors U.S. LLC ("AGI") for securities fraud related to understating the risk to which investors were exposed in certain private funds offered by AGI.
- The DOJ also imposed $310 million in monetary sanctions on Scott Kohn's Future Income Payments, LLC, which operated as a vehicle for a nationwide Ponzi scheme.
- The CFTC imposed separate monetary sanctions totaling $5.17 billion on Cornelius Johannes Steynberg and Mirror Trading International Proprietary Limited in connection with their alleged misappropriation of Bitcoin received from investors in a commodity pool.
- OFAC settled with British American Tobacco p.l.c. for $508 million related to alleged violations of sanctions on North Korea and proliferators of weapons of mass destruction.

Excluding these large and unusual outliers, total monetary sanctions across all agencies in 2023 would have been $4.1 billion, a -65% decrease from the prior year's total.

Consistent with prior years, a small number of actions continue to represent most monetary sanctions, but that trend is slightly less pronounced this year compared to last year. For example, whereas the 10% of actions with the largest monetary sanctions accounted for 97% of total monetary sanctions imposed in 2022, they represented 93% of total monetary sanctions imposed in 2023.

In addition to aggregate data, the Enforcement Report explores median and mean monetary sanctions imposed by capital markets regulators,[5] bank regulators,[6] and DOJ civil and criminal actions against financial institutions.[7] These data appear on the subsequent pages.

[5] "**Capital markets regulators**" means the SEC and CFTC.
[6] "**Bank regulators**" means the CFPB, FDIC, Fed, NCUA, OCC, and OTS.
[7] 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.

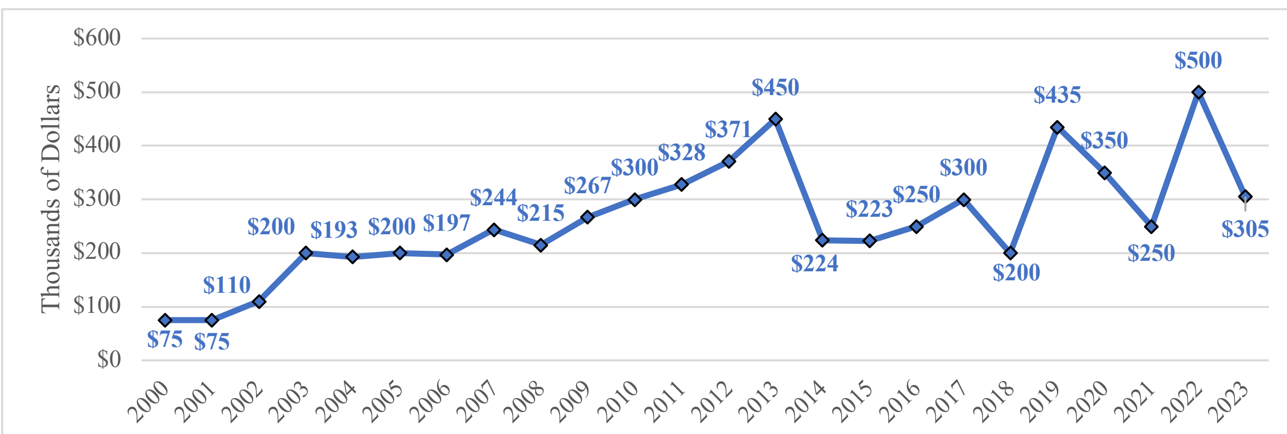
Median Sanctions

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 substantial penalties.

In 2023, median monetary sanctions decreased for capital markets regulators and the DOJ, but for bank regulators, median monetary sanctions increased significantly by jumping to a new record after a temporary decline in 2022. Among capital markets regulators, median sanctions fell to $305,000, a -39% decrease from the prior year, which had been an all-time high. Among bank regulators, median sanctions jumped to $600,000, a +2300% increase from the prior year and +200% higher than the prior peak in 2020.[8] For DOJ criminal and civil actions, median sanctions were $98,551,000, a -42.2% decrease, but not close to the historical nadir of $950,000 in 2003. As such, this indicator continues to demonstrate significant volatility.

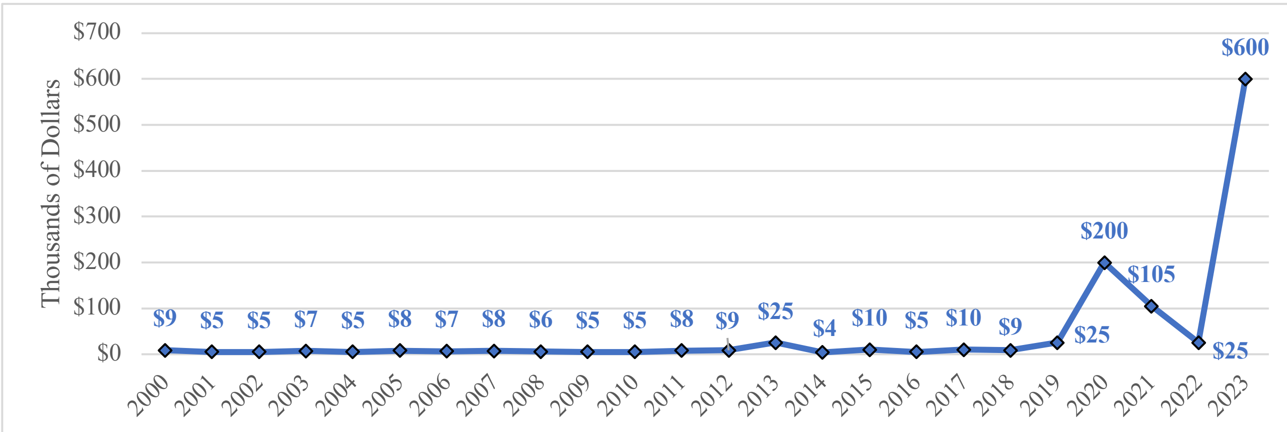
Figure 3: Median Monetary Sanctions
(Thousands of Dollars)

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

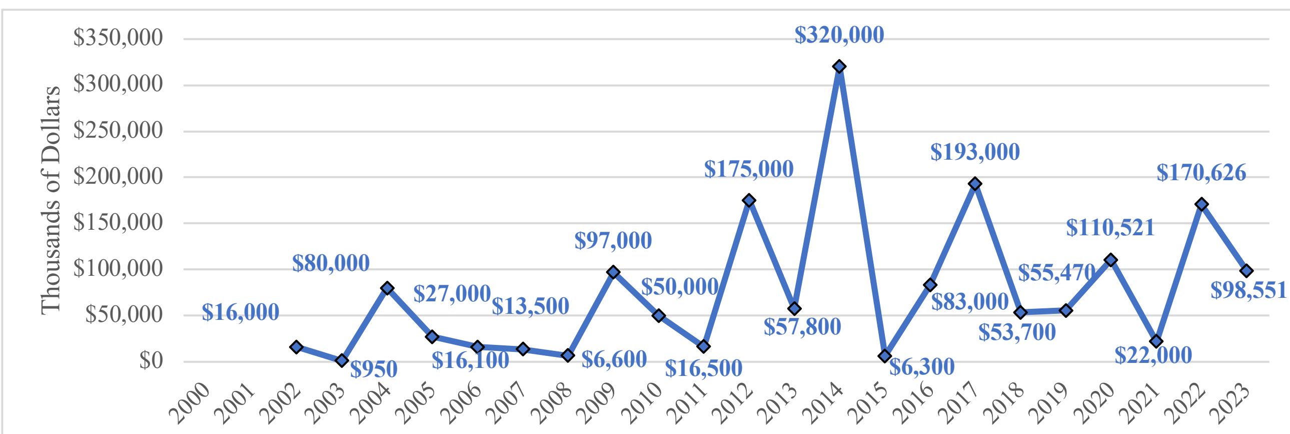


[8] The median penalty imposed by bank regulators on entity defendants remains at elevated levels compared to historical norms, increasing from $29,000 in 2019 to $574,000 in 2020, $404,000 in 2021, $321,000 in 2022, and now a new high of $928,000 in 2024.

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



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



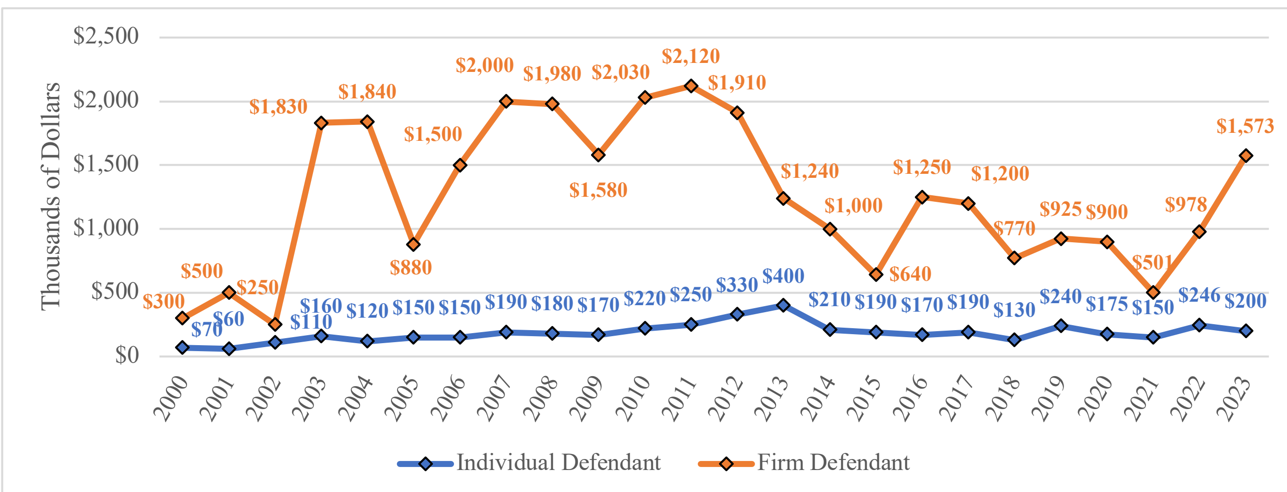
Median Sanctions on Individuals and Firms

Figure 4 shows the median monetary sanctions imposed against firm and individual defendants by capital markets regulators and bank regulators.[9] These figures remain within their historical ranges, except for the median monetary sanction imposed on entities by bank regulators, which reached a new peak in 2023. This figure has remained elevated since 2020 partly due to a lasting decrease in the number of small sanctions that would otherwise bring down the median.[10]

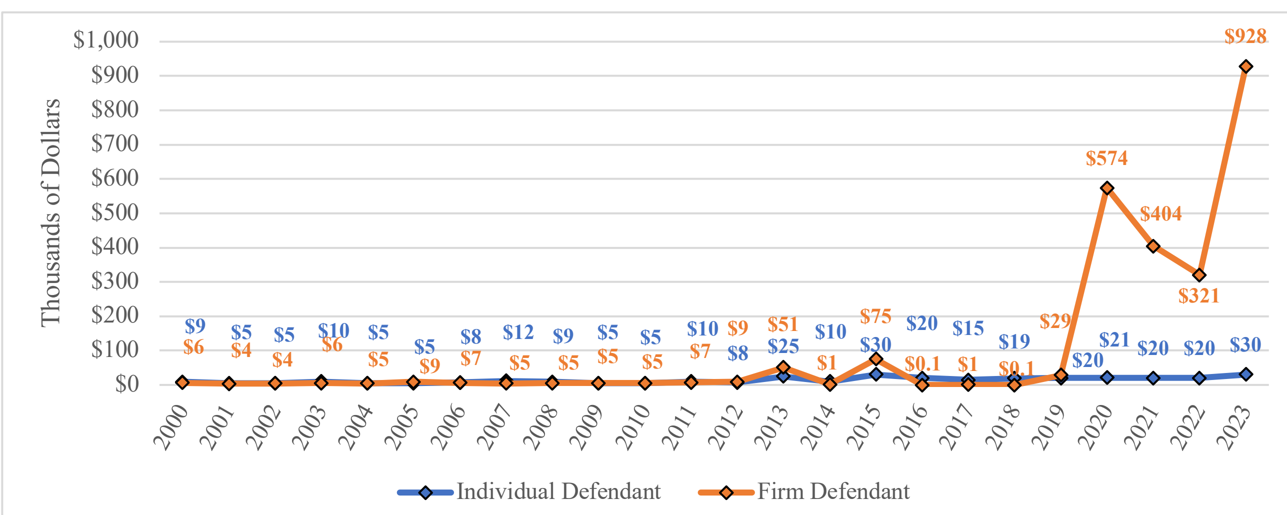
Figure 4: Median Individual- and Firm-Defendant Monetary Sanctions

(Thousands of Dollars)

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



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



[9] 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.

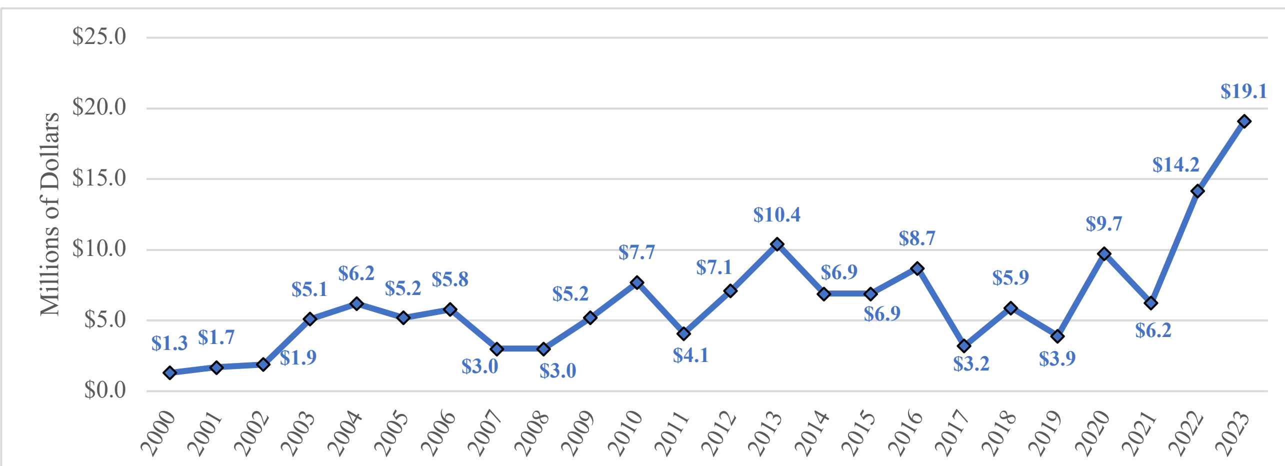
[10] For example, whereas the NCUA imposed 18 small monetary sanctions on late filers totaling $9,730 in 2019, the NCUA has imposed no such small monetary sanctions in subsequent years.

Mean Sanctions

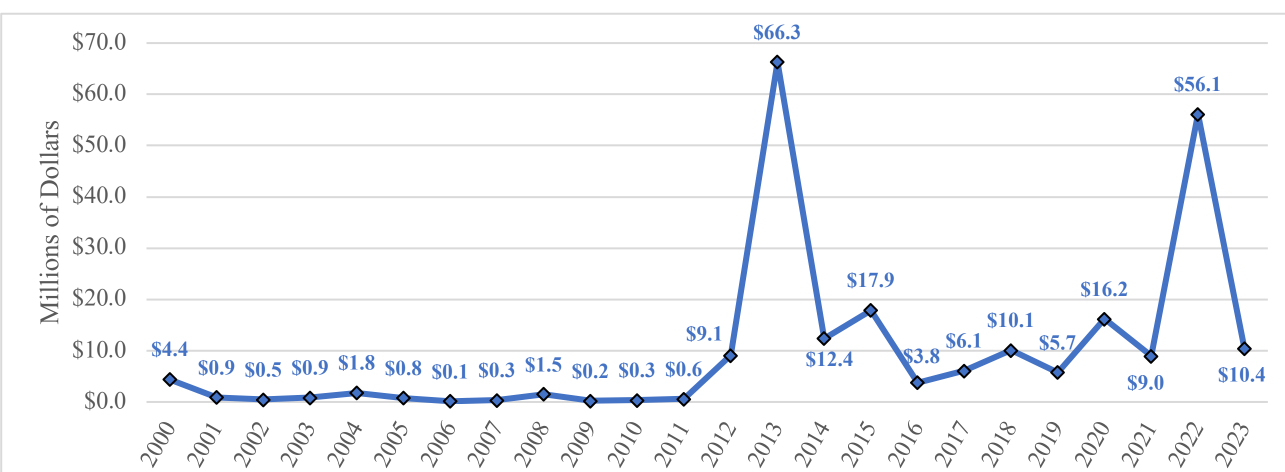
Figure 5 presents the mean monetary sanction against all defendants. In 2023, among capital markets regulators, mean sanctions were $19.1 million, a +34.5% increase from the prior year, which was the previous all-time high. This increase is attributable largely to a sharp rise in large outlier sanctions imposed by the CFTC. For example, whereas the CFTC imposed one sanction greater than $100 million in 2022, the SEC imposed six such sanctions in 2023—four of which were imposed on entities or individuals in connection with cryptocurrency-related violations. Among bank regulators, mean sanctions were $10.4 million, a -81.5% decrease from the prior year, but much more in line with figures from 2014-2021. The decrease is partly attributable to an outlier sanction from 2022, where the CFPB imposed a $3.7 billion monetary sanction on Wells Fargo Bank, N.A. for practices related to auto loan servicing, mortgage loan modifications, and deposit accounts. The highest sanction from the CFPB in 2023 was only $140 million by comparison.

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)

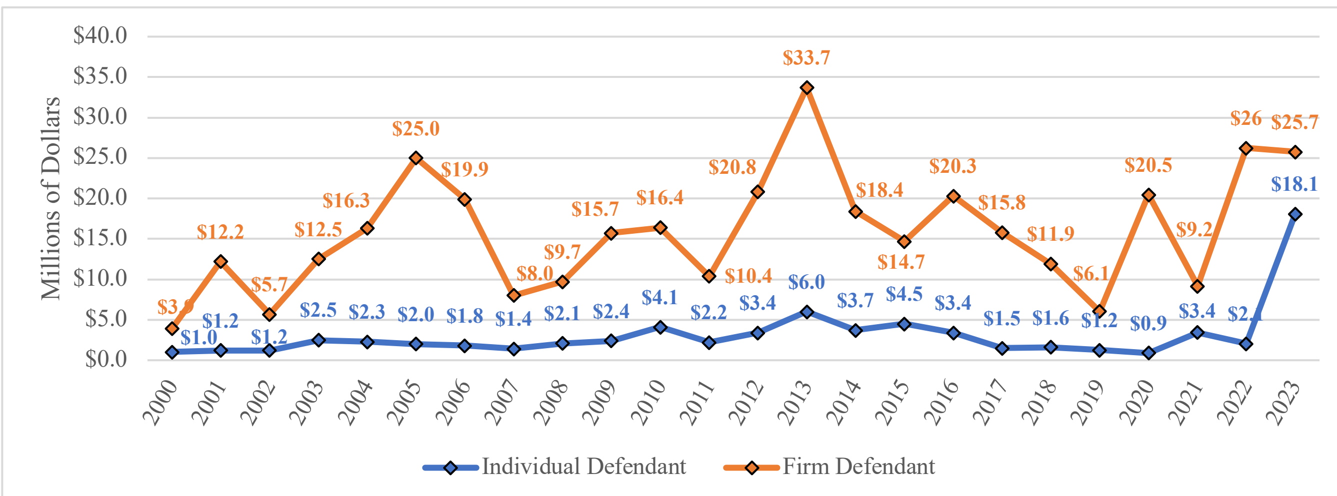


Mean Sanctions on Individuals and Firms

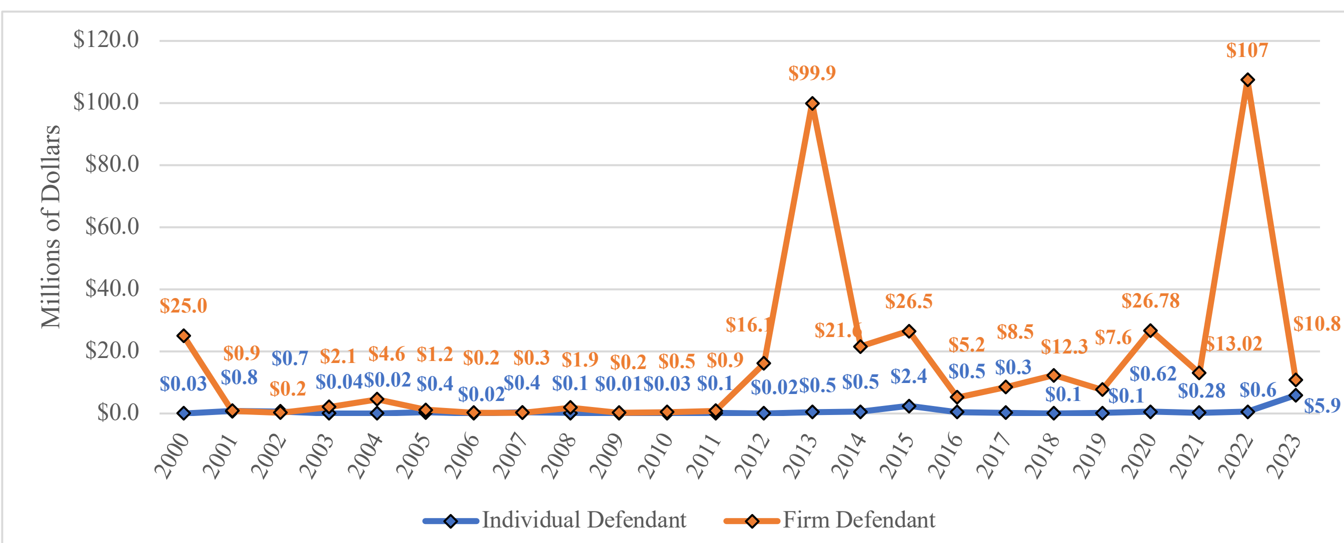
Figure 6 presents the mean monetary sanctions for individual and firm defendants imposed by capital markets and bank regulators. For both, sanctions imposed on entities remain within their normal historical ranges, whereas sanctions imposed on individuals have risen to all-time highs.

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)



FINRA Enforcement Actions and Sanctions

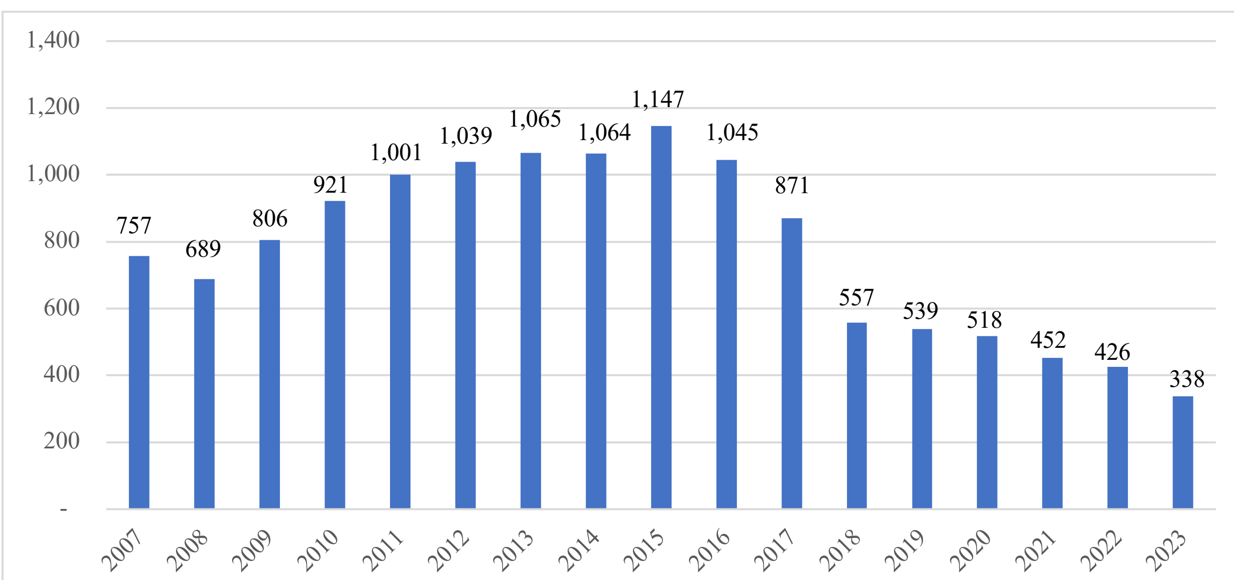
Figure 7 presents the number of enforcement actions brought by FINRA, the sum of monetary sanctions ordered to be paid by FINRA, and the mean monetary sanction against all FINRA defendants since FINRA's creation in 2007. The number of enforcement actions generally increased from 2008 to 2015, when they peaked at 1,147. Since 2015, enforcement actions have fallen each year, including a drop of 88 from 426 in 2022 to 338 in 2023, a -20.7% decrease. During the same period, the sum of monetary sanctions imposed by FINRA has been more volatile. In 2008, FINRA imposed an all-time low of $25.9 million in monetary sanctions, while in 2016, FINRA's sanctions peaked at $173.8 million. In the past year, sanctions increased from $54.5 million in 2022 to $88.4 million in 2023, a +62.2% increase.

On the whole, mean sanctions are trending upwards. From 2007-2013, the mean sanction imposed by FINRA hovered between $37,591 in 2008 and $71,828 in 2011, before shooting up to $124,624 in 2014. Since 2014, the mean sanction amount has varied but has stayed consistently above the 2007-2013 levels. In 2023, the mean sanction reached a new all-time high of $261,538, more than doubling from $127,934 in 2022.

The drop in the number of enforcement actions but increase in mean sanctions seemingly aligns with FINRA360, the "comprehensive self-evaluation and organizational improvement initiative" launched by FINRA in 2017.[11] This initiative seeks "to ensure that FINRA is operating as the most effective and efficient self-regulatory organization . . . ."[12]

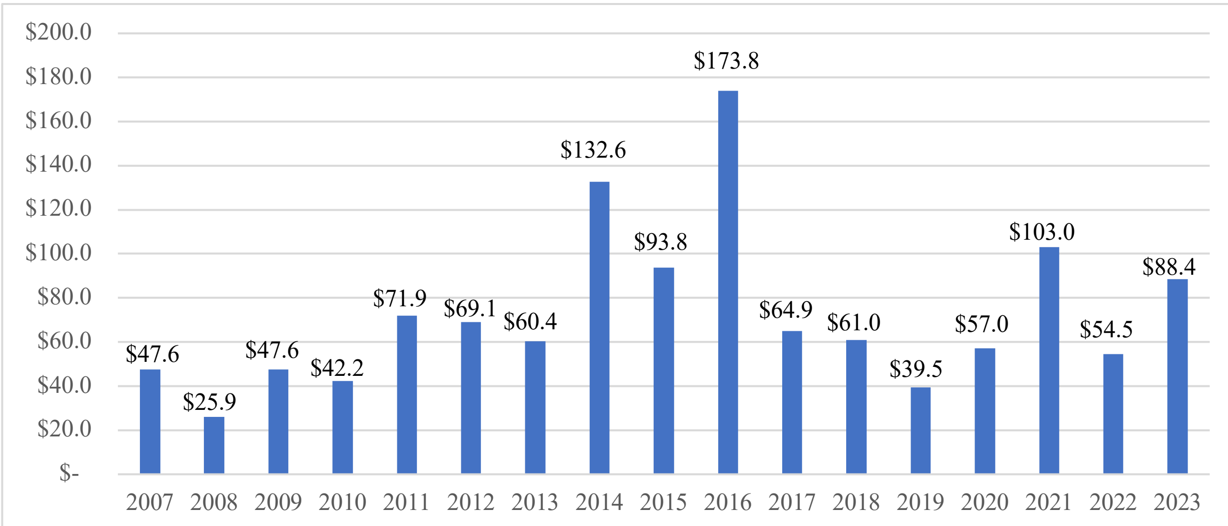
Figure 7: FINRA Enforcement Actions and Sanction Amounts

Panel A: Total Number of FINRA Enforcement Actions



[11] FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC., *FINRA360*, https://www.finra.org/about/finra-360 (last visited Oct. 4, 2024).
[12] FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC., *FINRA360 Progress Report*, https://www.finra.org/about/finra-360/progress-report (last visited Oct. 4, 2024).

Panel B: Total FINRA Monetary Sanctions ($ millions)



Panel C: FINRA Mean Monetary Sanctions ($)