



Annual Report on Sanctioning Activities in the SSM in 2023

7 June 2024

Introduction

This report has been prepared by the SSM Network of Enforcement and Sanctions Experts to present comprehensive statistics on sanctioning activities carried out in 2023 by the ECB and the national competent authorities (NCAs) of European Union (EU) Member States participating in the Single Supervisory Mechanism (SSM) in relation to breaches of prudential requirements.¹

The report looks at formal sanctioning proceedings conducted by competent authorities within the scope of their respective powers,² providing data in particular on the administrative penalties that were imposed for breaches of prudential requirements on supervised entities, other legal persons and natural persons falling within the scope of prudential supervision in the context of the SSM.³

The report presents aggregate statistics for the whole of the SSM. Data have been collected and compiled using standardised categories to ensure that information is harmonised and comparable.⁴

¹ Since the Capital Requirements Directive (CRD; [Directive 2013/36/EU](#)) currently ensures only a minimum level of harmonisation with regard to sanctioning, there are material differences between the various national laws transposing the CRD that are applied by competent authorities when exercising their sanctioning powers. In particular, breaches of the prudential requirements set out in EU law are not always sanctionable under the national law of participating Member States. Other factors may also affect a competent authority's decision to pursue a breach – e.g. the length of the limitation period, a statutory obligation to open proceedings in the event of a breach being identified or discretion to close a case solely for reasons of proportionality.

² The ECB can directly impose pecuniary penalties on significant institutions (SIs) that breach directly applicable acts of EU law (including ECB decisions or regulations) in relation to which administrative pecuniary penalties are made available to competent authorities under the relevant EU law. It can also impose pecuniary penalties on less significant institutions (LSIs) for breaches of ECB regulations or decisions that impose obligations on those entities vis-à-vis the ECB. In case of breaches of national law implementing Union directives, breaches committed by natural persons, or when a non-pecuniary penalty has to be imposed, the ECB may request the relevant NCA to open national sanctioning proceedings pursuant to Article 18(5) of the SSM Regulation ([Council Regulation \(EU\) No 1024/2013](#)). The ECB may also address such a request to an NCA where national legislation confers specific sanctioning powers on the NCA which are not provided for by the relevant EU law. This does not affect an NCA's ability to open proceedings on its own initiative under national law for tasks not conferred on the ECB.

³ The report does not cover sanctioning activities which fall outside the scope of prudential supervision within the SSM, such as activities relating to payment systems, markets for financial instruments, investment services, measures preventing the financial system from being used for money laundering or terrorist financing, and consumer protection. The report does not cover enforcement measures either.

⁴ The statistics presented in this report are calculated using data categories that differ from those applied by the competent authorities for supervisory disclosure under Article 143 of the CRD. The scope of the sanctioning activities is also wider than that specified in Part 5 (“Data on supervisory measures and administrative penalties”) of Annex IV to [Commission Implementing Regulation \(EU\) No 650/2014](#) laying down implementing technical standards on supervisory disclosure.

Main findings

The formal sanctioning proceedings conducted by competent authorities in 2023 (and the penalties imposed) focused mainly on breaches of prudential requirements in the area of internal governance, in line with the [SSM's supervisory priorities for 2023-25](#) (particularly the general objective of fostering further improvements in banks' governance). In addition, a significant number of sanctioning activities were conducted in relation to supervisory reporting and large exposures.

There was also a considerable number of proceedings relating to qualifying holdings and own funds, and penalties imposed in relation to own funds, public disclosure and recovery.

While the total number of proceedings conducted was down compared with 2022, the total number of penalties imposed was up slightly. A total of 168 administrative penalties were imposed by the end of the year. Pecuniary penalties accounted for 53% of those, with fines totalling around €25.095 million. The highest pecuniary penalty was a €6.825 million imposed on a significant institution (SI)⁵. For other types of person, the highest pecuniary penalties were as follows: €1.5 million for a less significant institution (LSI); €0.23 million for a legal person other than an SI or an LSI; and €0.07 million for a natural person. The remaining 47% of penalties were non-pecuniary in nature.

Sanctioning activities mainly concerned LSIs, which accounted for 62% of all proceedings conducted and 77% of all administrative penalties imposed. This was in line with the ratio of LSIs to SIs within the SSM, with LSIs accounting for 69% of all supervised entities.⁶ Sanctioning activities concerning natural persons accounted for 30% of all proceedings conducted and 14% of all administrative penalties imposed.

Data on formal proceedings that were ongoing at the end of 2023 suggests that governance is likely to stay in the spotlight when it comes to SSM sanctioning activities. It also remains one of the [SSM's supervisory priorities for 2024-26](#).

⁵ The respective supervisory roles and responsibilities of the ECB and the NCAs are allocated on the basis of the significance of the supervised entities. SIs are supervised entities (i.e. credit institutions, financial holding companies, mixed financial holding companies and branches established in participating Member States by credit institutions established in non-participating Member States) that are classified as "significant" on the basis of the criteria set out in Article 6(4) of the SSM Regulation and are supervised directly by the ECB. LSIs, by contrast, are subject to indirect supervision by the ECB – i.e. they are directly supervised by the NCAs, with the ECB providing oversight.

⁶ There were 2,835 supervised entities in 2023, with 113 supervised groups (comprising 879 individual entities) classified as "significant" as at 30 November 2023 and 1,956 entities classified as LSIs at the end of December 2023. For more detailed information, see: www.bankingsupervision.europa.eu/press/publications/annual-report/html/ssm.ar2023~2def923d71.en.html

2 Sanctioning proceedings conducted in the SSM in 2023

2.1 Overall figures

At the beginning of 2023, 184 formal sanctioning proceedings⁷ were actively being conducted by competent authorities in the SSM (**Table 1**). Of these, ten had been opened in previous years by NCAs acting at the ECB's request pursuant to Article 18(5) of the SSM Regulation.⁸ A total of 185 new formal sanctioning proceedings were then opened in the course of 2023.

Table 1
Numbers of formal sanctioning proceedings in 2023

	Total number of proceedings	of which, originally initiated at the ECB's request
Ongoing at the start of 2023 (i.e. opened previously)*	184	10
Suspended at the start of 2023	218**	123
Newly opened in 2023	185	8
Total handled in 2023	371	18
Completed in 2023	227	7
of which, finalised with a penalty	188	7
of which, closed without a penalty	39	0
Ongoing at the end of 2023	144	11
Suspended at the end of 2023	216	123

* This includes one proceeding originally initiated at the ECB's request which was, erroneously, not reported in the 2022 Annual Report. It does not include suspended proceedings, which are listed separately.

** This figure comprises 216 proceedings that were suspended prior to 2023 owing to criminal proceedings pending before national courts against the same person(s) in connection with the same facts, plus two additional proceedings that were suspended in 2022 owing to administrative proceedings pending before national courts which could have an impact on the sanctioning proceedings. Those last two proceedings were reopened and completed in the course of 2023.

Including proceedings that were ongoing at the beginning of 2023, the competent authorities comprising the SSM handled a total of 371 formal sanctioning proceedings in the course of the year. Of those, 227 were completed in 2023, while 144 remained ongoing at the end of the year.

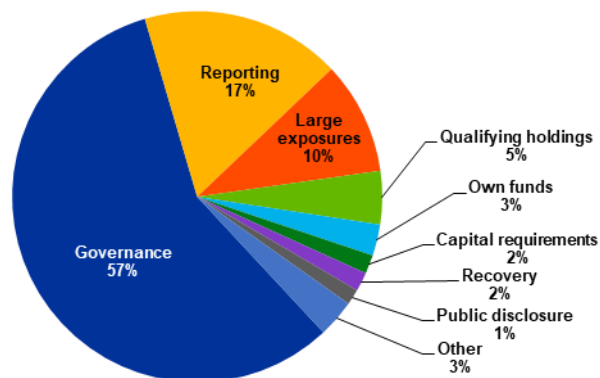
More than half of all proceedings handled in 2023 (57%) related to breaches in the area of internal governance, with the next largest shares relating to reporting (17%), large exposures (10%), qualifying holdings (5%) and own funds (3%) (**Chart 1**).

⁷ In this report, a "proceeding" is not the same as a "case". If a case concerns multiple infringements, these are reported as different proceedings.

⁸ See the explanation in footnote 2. For the purposes of this report, a proceeding is considered to be "opened" when either (i) a formal act declaring the opening of the sanctioning proceedings is adopted by the relevant decision-making body of the competent authority before the persons concerned are formally granted the right to be heard for the first time on the facts established and the objections raised against them, or (ii) the persons concerned are formally granted the right to be heard for the first time on the facts established and the objections raised against them.

Chart 1

Breakdown of formal sanctioning proceedings conducted in 2023 by area of infringement



Note: "Other" consists of (i) breaches concerning the business of taking deposits or other repayable funds from the public without being a credit institution and (ii) breaches of national prudential requirements.

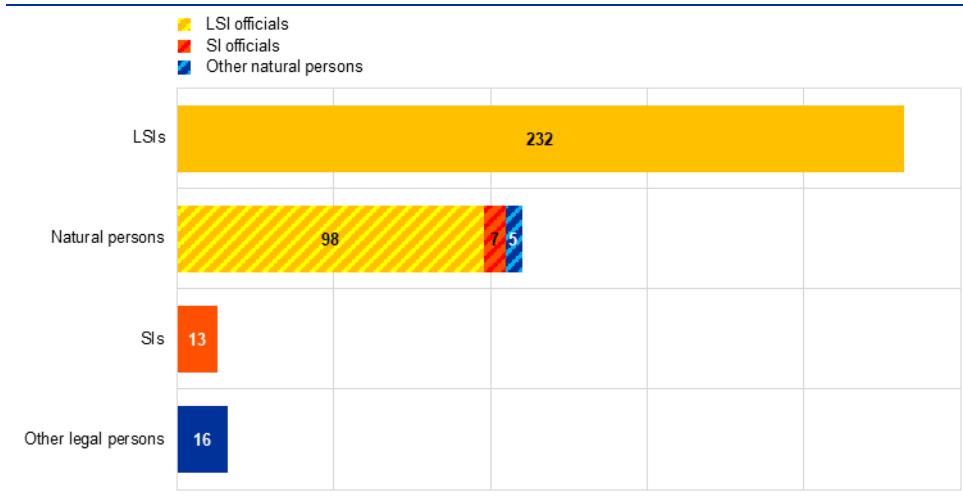
In the area of internal governance, the sanctioning proceedings conducted in 2023 continued to relate predominantly to (i) risk management and internal controls, and (ii) organisational requirements (including as regards the functioning of management bodies and committees).

As regards the types of person who were the subject of proceedings, 62% of the 371 proceedings handled in 2023 concerned LSIs, while 30% concerned natural persons (89% of whom were officials at LSIs).⁹ The other 8% of proceedings conducted in 2023 concerned SIs and other legal persons falling within the scope of the SSM (**Chart 2**).

⁹ For the purposes of this report, "LSI official/SI official" is a member of the management body or key function holder of an LSI/SI falling within the scope of the SSM sanctioning activities.

Chart 2

Breakdown of formal sanctioning proceedings conducted in 2023 by type of person (number of proceedings)

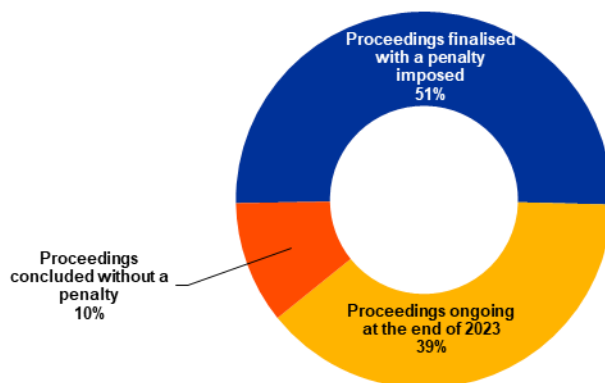


2.2 Proceedings completed by the end of 2023

A total of 227 formal sanctioning proceedings were completed in 2023 (61% of the total number handled). Each of those proceedings ended with either a decision to impose a penalty or a decision to close the proceedings without imposing any penalty (Table 1 and Chart 3). The other 144 proceedings were still ongoing at the end of the year.

Chart 3

Outcome of formal sanctioning proceedings conducted in 2023



See Section 3 for further information on the proceedings finalised with a penalty.

Of the 371 proceedings handled in 2023, 39 (10%) were closed without a penalty being imposed.¹⁰ Nevertheless, a significant number of those closed proceedings (31%) resulted in formal confirmation of a wrongdoer's liability. In some jurisdictions was addressed with warnings that do not have a sanctioning nature under the applicable national legislation, while in other jurisdictions it served as a basis for opening sanctioning proceedings against the legal persons concerned, rather than the natural persons initially considered. Another 36% of the closed proceedings were completed without a penalty because, after closer assessment, it was concluded that no breach had been committed. The third most common reason for closure was that the alleged breach was not sufficiently material or severe; this applied in 23% of all proceedings that were closed without a penalty. The figures for this category of proceedings may also reflect policy considerations that were taken into account by the national legislator or the respective competent authority when deciding which infringements should be pursued. The remaining 10% of proceedings were closed on other grounds.

Most of the proceedings that were closed without a penalty related to alleged breaches in the areas of internal governance (49%) and reporting (31%).

2.3 Proceedings ongoing and suspended at the end of 2023

At the end of 2023, 144 formal sanctioning proceedings (39% of the total number handled) were ongoing. 11 of those proceedings had been opened by NCAs at the ECB's request pursuant to Article 18(5) of the SSM Regulation.

The majority of the proceedings that were ongoing at the end of 2023 related to suspected breaches in the areas of internal governance (69%), qualifying holdings (8%) and reporting (8%).

In addition, 216 proceedings opened and suspended prior to 2023 (of which, 123 had been opened by NCAs at the ECB's request in previous years pursuant to Article 18(5) of the SSM Regulation) remained suspended throughout the year.¹¹ Meanwhile, two proceedings that had been suspended in 2022¹² were reopened and concluded with pecuniary penalties.

¹⁰ Proceedings being "closed" means that the proceedings were completed without the ECB or the relevant NCA imposing a penalty. This also includes (where applicable) ECB proceedings opened pursuant to Article 18(5) of the SSM Regulation which were ultimately closed without a request being addressed to the relevant NCA.

¹¹ All of these proceedings had been suspended owing to criminal proceedings pending before national courts against the same person(s) in connection with the same facts.

¹² These two proceedings had been suspended because of a case pending before the relevant administrative court which sought to clarify a preliminary question under administrative law that was of significance for the sanctioning proceedings.

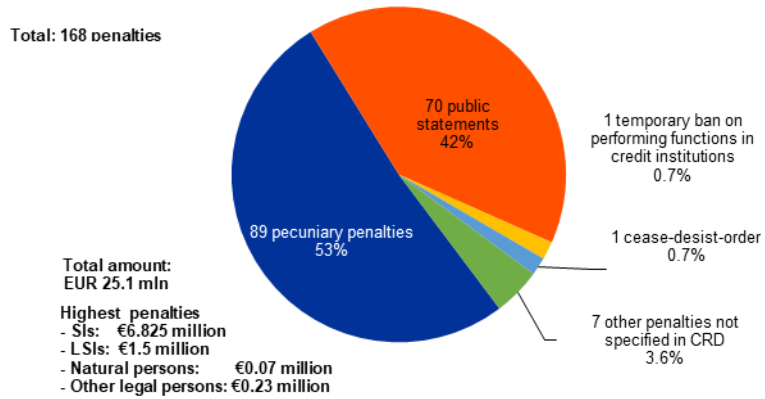
3 Administrative penalties imposed in 2023

3.1 Overall figures

Of the 227 formal sanctioning proceedings completed in 2023, 188 (83%) resulted in the imposition of total of 168 administrative penalties (89 pecuniary and 79 non-pecuniary) (Chart 4).

Chart 4

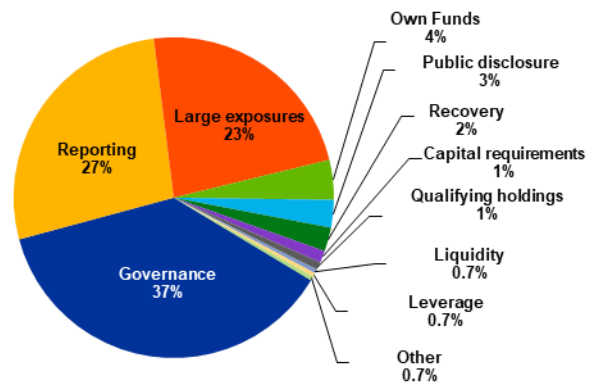
Administrative penalties imposed by competent authorities in 2023 for breaches of prudential requirements



Most administrative penalties were imposed for breaches relating to internal governance (37%), reporting (27%) and large exposures (23%) and other with far smaller shares (own funds (4%), public disclosure (3%), recovery (2%), capital requirements (1%), qualifying holdings (1%), Liquidity (<1%), Leverage (<1%) and "Other" (<1%)) (Chart 5).

Chart 5

Breakdown of administrative penalties imposed in 2023 by area of infringement



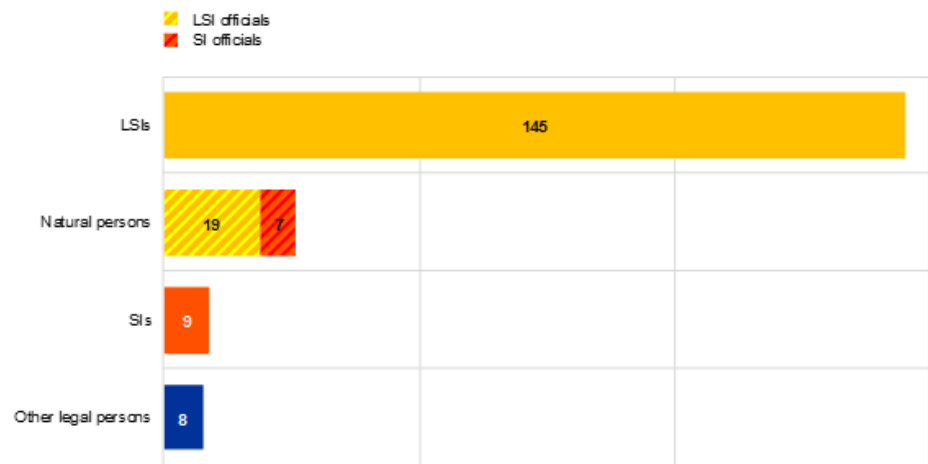
Note: Totals in the chart do not add up to 100% exactly owing to rounding.

Within the area of internal governance, proceedings concluded with the imposition of a penalty related mainly to risk management and internal controls.

In terms of the types of person sanctioned, of the 188 proceedings where an administrative penalty was imposed, 145 (77%) concerned LSIs, 9 (5%) related to SIs, 8 (4%) concerned other legal persons falling within the remit of the competent authorities, and the remaining 26 (14%) related to natural persons (**Chart 6**).

Chart 6

Breakdown of proceedings concluded with an administrative penalty in 2023 by type of person sanctioned (number of proceedings)



3.2 Pecuniary penalties

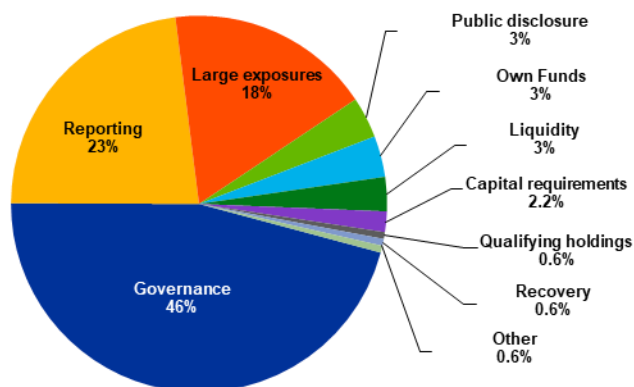
Of the 168 administrative penalties that were imposed in 2023 for breaches of prudential requirements, 89 (53%) were pecuniary in nature, with fines totalling around €25.095 million. Seven pecuniary penalties were imposed by NCAs in national proceedings opened at the ECB’s request pursuant to Article 18(5) of the SSM Regulation.

The highest pecuniary penalty was a €6.825 million imposed on an SI. For other types of person, the highest pecuniary penalties were as follows: €1.5 million for an LSI; €0.23 million for a legal person other than an SI or an LSI; and €0.07 million for a natural person.

More than two-thirds of all pecuniary penalties were imposed in relation to breaches in the areas of internal governance (46%) and reporting (23%) (**Chart 7**).

Chart 7

Breakdown of pecuniary penalties imposed in 2023 by area of infringement



3.3 Other penalties

In addition to those pecuniary penalties, competent authorities also imposed 79 penalties of a non-pecuniary nature (which accounted for 47% of all administrative penalties imposed).

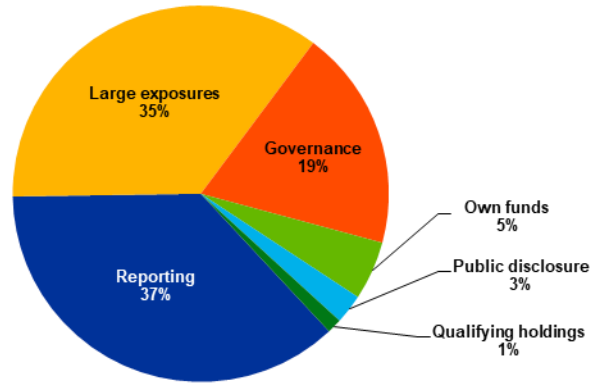
These penalties comprised 70 public statements (generally imposed in combination with a pecuniary penalty), one cease-and-desist order, one temporary ban on performing functions in credit institutions and seven other penalties not specified in the CRD (mainly comprising written warnings).¹³

More than two-thirds of these penalties were imposed on account of breaches relating to reporting (37%) and large exposures (35%) (**Chart 8**).

¹³ In some participating Member States, these measures are categorised differently under national law, being regarded not as a penalty, but as a supervisory or enforcement measure. The data presented in this report does not include such measures, since they are not adopted following formal sanctioning proceedings.

Chart 8

Breakdown of non-pecuniary penalties imposed in 2023 by area of infringement



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For specific terminology, please refer to the [SSM glossary](#) (available in English only).

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