

6

EXERCISE OF SANCTIONING POWERS

Much of the sanctioning activity concerned credit institutions' compliance with the legislation on transparency and protection of credit institution customers.

Following inspections of compliance with this legislation conducted on the mortgage portfolios of five banks,¹ all of them were fined on various grounds, such as: (i) failing to duly provide the pre-contractual and contractual information; (ii) erroneous calculation of the annual percentage rate (APR) by excluding arrangement expenses and related costs; (iii) insufficient control over agents; and (iv) fees unduly charged. Additionally, at end-2019 proceedings were ongoing against a cooperative and two banks in connection with breaches of the transparency legislation. Another proceeding was ongoing against a bank to verify whether it properly applied the Code of Good Practice.

In the prudential supervision area, and as a result of an ECB instruction, a

sanctioning proceeding was initiated against 41 directors and executives of an SI, pursuant to the SSM legislation, which confers sanctioning powers on the ECB and the NCAs and establishes cases where the former, as direct supervisor of the institution in question, requests the latter to conduct the corresponding proceedings. This proceeding (currently suspended) concerns prudential consolidation and capital requirements breaches.

Also under prudential supervision, an LSI and eight directors were sanctioned

(one director being disqualified) for committing a very serious infringement concerning corporate governance and remuneration policy, and a serious infringement in respect of internal control.

Sanctioning activities involving supervised institutions other than credit

institutions continued, including the proceeding initiated against a mutual guarantee company and 32 directors and executives for failing to comply with a prior requirement concerning internal control. This proceeding concluded with penalties being imposed on said entity and 17 of its directors and executives. A currency-exchange bureau and its sole administrator were sanctioned for pursuing activities reserved for payment institutions. Lastly, proceedings were initiated against: i) a payment institution, its sole director and two de facto directors; ii) an institution pursuing activities reserved for credit institutions and its directors; iii) another institution that did not furnish information to the supervisory team; and iv) an appraisal company and five of its directors and executives.

¹ Regarding disclosure of the sanctions imposed and of the identity of the offenders, the provisions of Article 115 (5), (6) and (7) of Law 10/2014 shall apply (see <https://www.bde.es/bde/en/areas/supervision/sancion/sanciones-impues/>).