

## 5 EXERCISE OF SANCTIONING POWERS



Imperial mantel clock. 19th century. Banco de España collection.

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In 2017 the first four decisions imposing sanctions under Law 10/2014 as the substantive rule were adopted. These decisions<sup>1</sup> imposed sanctions on two banks, on a payment institution and its directors and on an unauthorised institution and its director. In three of these four cases the sanctions were calculated based on the gains obtained from the infringement.

The reductions in sanctions introduced in Administrative Procedure Law 39/2015 in cases of recognition of liability and/or voluntary payment came into force in 2017. As a result, several offenders obtained reductions – of 40% (for recognition of liability and voluntary payment) or 20% (for voluntary payment without recognition of liability) – in the sanctions proposed.

Much of the sanctioning activity in 2017 addressed infringements of the Code of Good Practice, which is designed to protect especially vulnerable groups of borrowers experiencing financial hardship and which credit institutions have been able to sign up to since 2012. Those that do so become subject to certain obligations, laid down in regulatory and disciplinary rules, relating to information and application of the measures envisaged in the Code (debt restructuring, debt reduction, dation in payment). In this area three decisions to impose sanctions were adopted, against two banks and a credit cooperative, and a fourth sanctioning proceeding was initiated against a bank.

Sanctioning of infringements of transparency rules was also noteworthy, and in particular infringements of obligations, especially relating to pre-contractual and contractual information, established in the rules on transparency and protection of bank customers. In this area, four proceedings – against two banks, a specialised lending institution and a currency-exchange bureau and its directors and senior managers – concluded with imposition of sanctions, and another five proceedings were initiated, all against banks.

Sanctions were also applied to institutions which, without the necessary authorisation, were pursuing restricted activities or using restricted names, to payment institutions (mainly for infringements relating to accounting, organisational structure or safekeeping of funds) and to infringements of Central Credit Register regulations. In this area three proceedings were concluded with imposition of sanctions on the institutions and on their directors and senior managers, including in one case withdrawal of the institution's licence, and another four proceedings were initiated. Also, in several of these proceedings interim measures, such as suspending the institution's activity, were adopted.

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<sup>1</sup> 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, establishing when those details should be published in the Official State Gazette (BOE) and on the Banco de España's website (<https://www.bde.es/bde/es/areas/supervision/sancion/sanciones-impues/>).