

Press release

23 August 2022

ECB confirms sanctions on Crédit Agricole for classifying shares as CET1 capital without prior approval

- ECB imposes penalties totalling €4.765 million on Crédit Agricole S.A. and two subsidiaries
- Banks didn't ask for prior ECB permission to classify shares as Common Equity Tier 1 capital
- ECB issued sanctions in 2018 but banks challenged decisions before EU Court of Justice

The European Central Bank (ECB) has imposed administrative penalties of €4.275 million on Crédit Agricole S.A. (CASA) and €300,000 and €190,000 on its subsidiaries Crédit Agricole Corporate and Investment Bank (CACIB) and Crédit Agricole Consumer Finance (CACF) respectively, after the banks classified shares as Common Equity Tier 1 (CET1) capital without prior permission from the ECB.

For five consecutive quarters during the period 2015-16, CASA classified newly issued shares as CET1 capital without seeking the ECB's permission to do so, despite the ECB reminding the bank of its obligations. This means the bank did not allow the ECB to timely assess whether those instruments were eligible as CET1 capital, which is the highest quality of capital as defined by banking law. This prior control is key to ensure banks can absorb losses. The subsidiaries CACIB and CACF took a similar approach for three consecutive quarters.

The ECB already sanctioned the banks in 2018 for this breach. The banks subsequently challenged the ECB's decisions before the Court of Justice of the European Union, which confirmed the banks' liability for the breaches but annulled the pecuniary penalties considering that the ECB hadn't sufficiently explained how it had determined the amounts. The ECB has now addressed that procedural deficiency and reimposed the penalties on the banks.

When deciding on the amount of the penalty to be imposed on a bank, the ECB applies its [Guide to the method of setting administrative pecuniary penalties](#). In this case, the ECB classified the breach as moderately severe for the parent bank CASA and as minor for the two subsidiaries CACIB and CACF. More details on sanctions are available on the [supervisory sanctions web page](#).

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The banks may challenge the ECB's decisions before the Court of Justice of the European Union.

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Notes

- The ECB's power to impose sanctions is based on Article 18(1) of Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions.
- A decision imposing a sanction may be challenged before the Court of Justice of the European Union under the conditions and within the time limits provided for in Article 263 of the Treaty on the Functioning of the European Union.
- In 2018 the ECB sanctioned the three banks, namely Crédit Agricole S.A. ([publication](#)), Crédit Agricole Corporate and Investment Bank ([publication](#)) and CA Consumer Finance ([publication](#)).
- The General Court annulled partially the 2018 ECB sanction decisions due to insufficient reasoning on the determination of the amount of the penalties but confirmed the liability of the banks ([T-576/18](#), [T-577/18](#) and [T-578/18](#)). The banks appealed the General Court judgements, but the Court of Justice of the European Union dismissed the appeals ([C-456/20 P to C-458/20 P](#)).

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