

Report

Penalties and measures imposed under the AIFMD in 2022

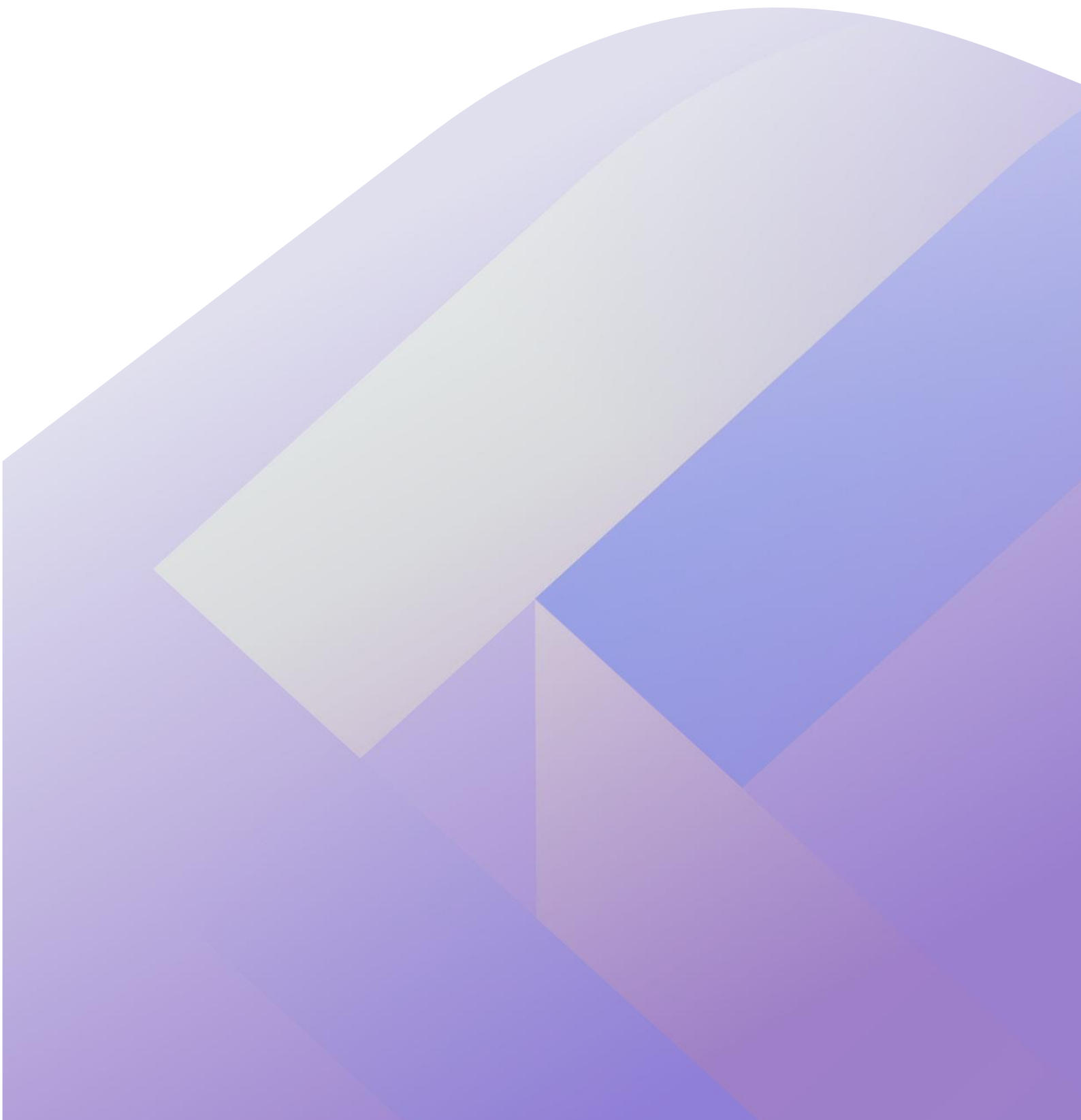


Table of Contents

1	Executive Summary	4
2	Background and relevant regulatory framework for reporting on AIFMD sanctions.....	6
3	Information on the aggregated penalties and measures imposed.....	6
4	Guidance for the interpretation of reported penalties and measures.....	7
5	Sanctions imposed by NCAs	8
5.1	Overview of the penalties and measures imposed in 2022.....	8
5.2	Overview penalties and measures imposed during 2022 by NCAs' Member States (split by AIFMD Chapter)	9
6	General observations on the use of the sanctioning tool by NCAs.....	17
6.1	Observations on penalties	17
6.2	Observations on measures.....	22
6.3	Concluding observations	24

1 Executive Summary

Reasons for publication

ESMA is required to draw up an annual report on the application of administrative measures and imposition of penalties in the case of breaches of the provisions adopted in the implementation of the AIFMD in the different Member States. This report contains information on the penalties and measures imposed by NCAs from 1 January 2022 to 31 December 2022.

Contents

Overall, 10 NCAs imposed a total of 128 penalties, with three single amounts of 43, 46 and 18 penalties imposed by three NCAs; the total aggregated value of financial penalties imposed amounted to over two million Euro, with one single amount of EUR 1,520,000 imposed by a single NCA.¹ 10 NCAs imposed a total of 146 measures, with four NCAs communicating, respectively, 38, 57, 19 and 16 measures. 16 NCAs did not impose any sanction (penalty or measure) during this reference period.

Broadly, the data gathered under the sanction reports published so far² keeps evidencing that the sanctioning powers are not equally used among NCAs. More specifically, the pattern evidenced throughout the years shows that besides a limited number of NCAs issuing an increasing number/amount of sanctions³, the level of sanctions issued at national level remains stable and generally low, in particular when it comes to penalties.⁴

Work will continue in the future (including by issuing the annual iterations of this report) to promote further convergence in the use of sanctioning powers by NCAs across the EU.

Next Steps

The information reported to ESMA and included in this report will inform ESMA's ongoing work aimed at fostering supervisory convergence in the application of the AIFMD and contribute to ESMA's goal to develop a common EU outcome-focused supervisory and enforcement culture. An annual report will be issued for the future reporting periods.

¹ The AMF issued 6 penalties for a total amount of EUR 1,520,000.

² This is the fourth report published by ESMA concerning penalties and measures issued under the AIFMD. The AIFMD sanctions reports published so far cover the reporting periods 2013-2021. ESMA previously published the UCITS sanction reports for the reporting periods 2016-2021. The 2022 UCITS Sanction Report was published concurrently with this report and is also available on the ESMA website. Sanctions report published by ESMA are available in the fund management page of the ESMA website, available at the following link: [Fund Management \(europa.eu\)](https://www.esma.europa.eu/fund-management).

³ As shown by Section 6.1 of this report, in the reporting period 2013-2022, the AMF issued 78% of the total amount of financial penalties (for a total amount of over 79 million Euro).

⁴ For further information on the use of the sanctioning tool at national level, please refer to Section 6 of this report.

2 Background and relevant regulatory framework for reporting on AIFMD sanctions

1. This report is drafted pursuant to Article 48(3) of AIFMD.⁵ According to this article, ESMA shall draw up an annual report on the application of administrative measures and imposition of penalties in the case of breaches of the provisions adopted in the implementation of the AIFMD in the different Member States. NCAs shall provide ESMA with the necessary information for that purpose.
2. The information submitted by NCAs refer to all the penalties and measures imposed during the previous calendar year.

3 Information on the aggregated penalties and measures imposed

3. This is the fourth report published by ESMA concerning penalties and measures issued under the AIFMD.⁶
4. Article 48(1) of the AIFMD provides that “Member States shall lay down the rules on measures and penalties applicable to infringements of the national provisions adopted pursuant to the Directive and shall take all measures necessary to ensure that those rules are enforced [...] [and] shall ensure, in accordance with their national law, that the appropriate administrative measures can be taken or administrative penalties be imposed against the persons responsible where the provisions adopted in the implementation of the Directive have not been complied with”. According to the same provision, Member States shall also ensure that those measures are “effective, proportionate and dissuasive”.
5. For the purpose of this report, only the penalties and measures issued under the AIFMD have been considered. Any infringement of delegated or implementing acts issued under that Directive or national provisions does not fall within the remit of the report, even where notified to ESMA by an NCA.
6. ESMA deems that the 2022 data, read in conjunction with data on sanctions issued in previous years, can provide a useful indication on the use of the sanctioning tool at national level.
7. The aggregated information contained in this report reflects the data submitted to ESMA by NCAs.

⁵ OJ L 302, 17.11.2009, p. 32.

⁶ Previous AIFMD sanctions report published by ESMA are available in the fund management page of the ESMA website, available at the following link: [Fund Management \(europa.eu\)](https://www.esma.europa.eu/fund-management).

4 Guidance for the interpretation of reported penalties and measures

8. The penalties imposed may cover more than one legislative provision, therefore the sum of penalties and measures disclosed in Section 5.2 of this report may not correspond to the total number/amount of penalties and total number of measures imposed as disclosed in Section 5.1.
9. If the relevant penalties/measures refer not only to breaches relating to one single article of the AIFMD, but also to another article of the AIFMD or other provisions (at EU and/or national level), and the relevant amounts cannot be disaggregated per article of the AIFMD which was infringed, the mention “AGGREGATED FIGURE” is added to each value in the annexes of this report.
10. The amount of penalties can be submitted in Euro or in the national currency, where this is different from the Euro. In the latter case, information on the equivalent value in Euro of the total amounts of penalties is also provided by NCAs.

5 Sanctions imposed by NCAs

5.1 Overview of the penalties and measures imposed in 2022

NCAs' Member States	Sanctions			No sanctions imposed
	Total number of:		Total aggregate amount of financial penalties (EUR)	
	penalties ⁷	measures ⁸		
Austria		2		
Belgium				X
Bulgaria				X
Croatia		3		
Cyprus				X
Czech Republic	43	38	96,205 ⁹	
Denmark		4		
Estonia				X
Finland				X
France	6		1,520,000	
Germany				X
Greece		3		
Hungary	46	57	56,840 ¹⁰	
Ireland				X
Italy				X
Latvia				X
Lithuania				X
Luxembourg	4		337,295	
Malta	5	1	20,750	
Netherlands				X
Poland	2		405,125	
Portugal	1		50,000	
Romania	18	19	6,347	
Slovenia	1	3	6,380	
Slovakia				X
Spain				X
Sweden				X
Liechtenstein	2	16	15,214.9 ¹¹	
Norway				X
Iceland				X
Total	128	146	~ 2,514,157	

⁷ As the penalties imposed may cover more than one legislative provision, the total number/amount of penalties disclosed in this Section may not correspond to the sum of the number/amount of penalties disclosed in Section 5.2.

⁸ As the measures imposed may cover more than one legislative provision, the total number of measures disclosed in this Section may not correspond to the sum of the number of measures disclosed in Section 5.2.

⁹ Corresponding to CZK 2,320,000.

¹⁰ Corresponding to HUF 22,750,000.

¹¹ Corresponding to CHF 15,000

5.2 Overview penalties and measures imposed during 2022 by NCAs' Member States (split by AIFMD Chapter)¹²

AIFMD	AIFMD Article	Penalties/ Measures	Austria	Czech Republic	Denmark	France	Malta	Slovenia	
Chapter I General Provisions	Art. 2(3)	Number of penalties				1			
		Amount of penalties				EUR 350,000*			
	Art. 3	Number of penalties				1			
		Amount of penalties				EUR 150,000*			
	Art. 3(3)	Number of penalties		37					
		Amount of penalties		EUR 79,618 ¹³					
	Art. 3(3)(b)(c)	Number of measures	1						
	Art. 3(3)(d)	Number of penalties						1	
		Amount of penalties						EUR 6,380	
		Number of measures	1					3	
	Art. 3(6)	Number of measures						1	
	Art. 4(1)	Number of penalties					3		
		Amount of penalties					EUR 700,000*		
Art. 5(1)	Number of measures					1			
Chapter II Authorisation of AIFMs	Art. 6	Number of penalties				2			
		Amount of penalties				EUR 270,000*			
	Art. 6(1)	Number of measures			1				
	Art. 7	Number of penalties				1			
Amount of penalties					EUR 150,000*				

* AGGREGATED VALUE: the relevant penalties refer not only to breaches relating to the relevant article of Directive 2011/61/EU, but also to other provisions

¹² NCAs who have not imposed penalties/measures during the period are not reflected in this table.

¹³ Corresponding to CZK 1,920,000.

AIFMD	AIFMD Article	Penalties/Measures	Czech Republic	Denmark	France	Hungary	Liechtenstein	Romania	
Chapter II <i>Authorisation of AIFMs</i>	Art. 7(3)(a)	Number of penalties						3	
		Amount of penalties						EUR 647*	
		Number of measures						1	
	Art. 8(3)(a)(c)	Number of measures		1					
	Art. 9	Number of measures		1					
	Art. 9(1)	Number of penalties					1		
		Amount of penalties					EUR 2,499 ¹⁴		
		Number of measures					1		
	Art. 9(5)	Number of measures					1		
	Art. 10(1)	Number of penalties							3
		Amount of penalties							EUR 647*
		Number of measures							1
	Art. 11(c)	Number of measures	38						
Chapter III <i>Operating conditions for AIFMs</i>	Art. 12	Number of penalties	1		1				
		Amount of penalties	EUR 4,146 ¹⁵		EUR 200,000*				

* AGGREGATED VALUE: the relevant penalties refer not only to breaches relating to the relevant article of Directive 2011/61/EU, but also to other provisions

¹⁴ Corresponding to HUF 1,000,000.

¹⁵ Corresponding to CZK 100,000.

AIFMD	AIFMD Article	Penalties/Measures	Denmark	Greece	Liechtenstein	Luxembourg	Poland	Portugal
Chapter III <i>Operating conditions for AIFMs</i>	Art. 12(1)	Number of penalties				1	1	
		Amount of penalties				EUR 174,400*	EUR 319,836*	
		Number of measures		1				
	Art. 12(1)(a)	Number of penalties			2	1		1
		Amount of penalties			EUR 15,214.9 ¹⁶	EUR 31,895*		EUR 50,000*
		Number of measures	2					
	Art. 12(1)(a)(e)	Number of measures			2			
	Art. 12(1)(e)	Number of measures			6			

* AGGREGATED VALUE: the relevant penalties refer not only to breaches relating to the relevant article of Directive 2011/61/EU, but also to other provisions

¹⁶ Corresponding to CHF 15,000.

AIFMD	AIFMD Article	Penalties/ Measures	Croatia	Greece	Hungary	Luxembourg	Portugal	Romania
Chapter III <i>Operating conditions for AIFMs</i>	Art. 12(1)(b)	Number of penalties					1	2
		Amount of penalties					EUR 50,000*	EUR 1,395
	Art. 12(1)(c)	Number of penalties			27			10
		Amount of penalties			EUR 27,233 ¹⁷			EUR 404*
		Number of measures			35			15
	Art. 12(1)(e)	Number of penalties					3	3
		Amount of penalties					EUR 50,000*	-
		Number of measures						9
	Art. 13(1)	Number of penalties			5			
		Amount of penalties			EUR 8,120 ¹⁸			
		Number of measures			5			5
	Art. 14	Number of penalties						3
		Amount of penalties						EUR 2,426*
	Art. 14(1)	Number of penalties			1	1		
		Amount of penalties			EUR 250 ¹⁹	EUR 174,400*		
		Number of measures		1	1			
	Art. 15(2)	Number of penalties			6	1		
		Amount of penalties			EUR 6,620 ²⁰	EUR 22,100*		
Number of measures		3		6				

* AGGREGATED VALUE: the relevant penalties refer not only to breaches relating to the relevant article of Directive 2011/61/EU, but also to other provisions

¹⁷ Corresponding to HUF 10,900,000.

¹⁸ Corresponding to HUF 3,250,000.

¹⁹ Corresponding to HUF 100,000.

²⁰ Corresponding to HUF 2,650,000.

AIFMD	AIFMD Article	Penalties/Measures	France	Hungary	Liechtenstein	Luxembourg	Portugal	Romania	
Chapter III <i>Operating conditions for AIFMs</i>	Art. 15(3)	Number of penalties		2					
		Amount of penalties		EUR 1,874 ²¹					
		Number of measures		2					
	Art. 16(1)	Number of penalties			1				
		Amount of penalties			EUR 250 ²²				
		Number of measures			1				
	Art. 18	Number of penalties	2						
		Amount of penalties	EUR 320,000*						
	Art. 18(1)	Number of penalties					2		
		Amount of penalties					EUR 195,500*		
	Art. 19	Number of penalties	1						
		Amount of penalties	EUR 120,000*						
	Art. 19(1)	Number of penalties			3			1	
		Amount of penalties			EUR 6,870 ^{*23}			EUR 50,000*	
		Number of measures			3	3			
	Art. 19(2)	Number of penalties							3
		Amount of penalties							EUR 970*
	Art. 19(3)	Number of penalties			2				
		Amount of penalties			EUR 1,624 ²⁴				
		Number of measures			2	3			

* AGGREGATED VALUE: the relevant penalties refer not only to breaches relating to the relevant article of Directive 2011/61/EU, but also to other provisions

²¹ Corresponding to HUF 750,000.

²² Corresponding to HUF 100,000.

²³ Corresponding to HUF 2,750,000.

²⁴ Corresponding to HUF 650,000.

AIFMD	AIFMD Article	Penalties/Measures	France	Greece	Hungary	Luxembourg	Poland
Chapter III <i>Operating conditions for AIFMs</i>	Art. 19(4)	Number of penalties			1		
		Amount of penalties			EUR 2,499 ²⁵		
		Number of measures			1		
	Art. 19(8)	Number of penalties				1	
		Amount of penalties				EUR 31,895*	
	Art. 20(1)	Number of penalties					1
		Amount of penalties		1			EUR 319,836*
		Number of measures		1			
	Art. 20(1)(e)	Number of penalties				1	
		Amount of penalties				EUR 22,100*	
	Art. 20(1)(f)	Number of penalties				2	
		Amount of penalties				EUR 53,995*	
	Art. 21(1)	Number of penalties				1	
		Amount of penalties				EUR 1,250 ²⁶	
		Number of measures				1	
	Art. 21(7)	Number of penalties	1				1
		Amount of penalties	EUR 500,000*				EUR 108,900*
		Number of measures				1	
	Art. 21(9)(b)	Number of penalties				1	
		Amount of penalties				EUR 2,499 ²⁷	
Number of measures					3		
Art. 21(9)(C)	Number of measures			1			

* AGGREGATED VALUE: the relevant penalties refer not only to breaches relating to the relevant article of Directive 2011/61/EU, but also to other provisions

²⁵ Corresponding to HUF 1,000,000.

²⁶ Corresponding to HUF 500,000.

²⁷ Corresponding to HUF 1,000,000

AIFMD	AIFMD Article	Penalties/ Measures	Czech Republic	France	Luxembourg	Malta	Poland	Portugal	Romania
Chapter III <i>Operating conditions for AIFMs</i>	Art 21 8(b)	Number of penalties			1				
		Amount of penalties			EUR 108,900*				
	Art 21 9(a)	Number of penalties			1				
		Amount of penalties			EUR 108,900*				
	Art 21 9(b)	Number of penalties			1				
		Amount of penalties			EUR 108,900*				
	Art 21 9(c)	Number of penalties			1				
		Amount of penalties			EUR 108,900*				
	Art 21 9(e)	Number of penalties			1				
		Amount of penalties			EUR 108,900*				
Art. 21(10)	Number of penalties			1			1		
	Amount of penalties			EUR 200,000*			EUR 319,836*		
Chapter IV <i>Transparency requirements</i>	Art. 22(1)	Number of penalties				5	1	1	
		Amount of penalties				EUR 20,750	EUR 85,289*	EUR 50,000*	
	Art. 22(2)	Number of penalties							3
		Amount of penalties							EUR 505*
	Art. 23	Number of penalties	1						
		Amount of penalties	EUR 2,073 ²⁸						
	Art. 24	Number of penalties	4						
		Amount of penalties	EUR 10,366 ²⁹						

* AGGREGATED VALUE: the relevant penalties refer not only to breaches relating to the relevant article of Directive 2011/61/EU, but also to other provisions

²⁸ Corresponding to CZK 50,000.

²⁹ Corresponding to CZK 2,320,000.

AIFMD	AIFMD Article	Penalties/ Measures	Austria	Denmark	France	Liechtenstein
Chapter IV <i>Transparency requirements</i>	Art. 23(1)(i)	Number of measures				2
	Art. 24(1)	Number of measures	1			
Chapter VI <i>Rights of EU AIFMs to market and manage EU AIFs in the Union</i>	Art. 31	Number of penalties			2	
		Amount of penalties			EUR 550,000*	
	Art. 31-33	Number of penalties			1	
		Amount of penalties			EUR 150,000*	
Chapter VII <i>Specific rules in relation to third countries</i>	Art. 34-42	Number of penalties			1	
		Amount of penalties			EUR 150,000*	
	Art. 36	Number of penalties			2	
		Amount of penalties			EUR 550,000*	
Chapter IX <i>Competent authorities</i>	Art. 46(2)(j)	Number of measures				1
	Art. 48(1)	Number of measures		1		

* AGGREGATED VALUE: the relevant penalties refer not only to breaches relating to the relevant article of Directive 2011/61/EU, but also to other provisions

6 General observations on the use of the sanctioning tool by NCAs

11. Broadly, the data gathered under the sanction reports published so far keeps evidencing that the sanctioning powers are not equally used among NCAs and, besides a limited number of NCAs, the number and amount of sanctions issued at national level remains relatively low.
12. During the period 2013-2022, no sanctions (penalties or measures) were issued under the AIFMD in the following Member States:

Table 1: Member States where no sanctions were issued in 2013-2022

Member States where no sanctions were issued	
2013-2022	Bulgaria, Estonia*, Ireland, Latvia*, Lithuania, Sweden, Iceland

* Members States where no sanctions were issued under the UCITS Directive either during the reporting period 2016-2022

6.1 Observations on penalties

13. The below tables provide an overview of aggregated figures on penalties issued under the AIFMD during the reporting periods 2013-2022:

Table 2: global overview of penalties issued by NCAs under the AIFMD in 2013-2022

	Number of NCAs which issued penalties	Total number of penalties	Total amount of penalties in € ³⁰
2013	1	1	~72,338
2014	2	4	~312,115
2015	1	4	~75,000
2016	5	44	~944,812

³⁰ Those amounts are mostly made up of high cumulative sanctions issued by some NCA, as follows:

- 2013: 72,338 € (PL);
- 2014: 77,500 € (PT), 234,615 € (PL);
- 2015: 75,000 € (PT);
- 2016: 439,000 € (IT), 460,000 € (PT), 21,358 € (HU), 22,604 € (PL);
- 2017: 35,300,000 € (FR), 1,198,782 € (PL), 110,118 € (HU);
- 2018: 1,017,000 € (IT), 2,465,000 € (PL);
- 2019: 4,135,000 € (PL); 3,930,000 € (FR).
- 2020: 1,787,726 € (PL); 936,000 € (IT)
- 2021: 38,070,000 € (FR); 4,087,489 € (PL); 416,800 € (LU);
- 2022: 1,520,000 € (FR); 405,125 € (PL); 337,295 € (LU).

	Number of NCAs which issued penalties	Total number of penalties	Total amount of penalties in € ³¹
2017	7	52	~36,799,531
2018	11	63	~4,459,000
2019	13	45	~9,000,000
2020	11	61	~3,354,407
2021	10	78	~42,902,420
2022	10	128 ³²	~2,514,157

14. While subtracting from the amount of penalties issued in 2013-2022 the highest single sanctions issued in that period, one may notice a very low amount of penalties issued (especially if compared to the total of ~6,5 trillion Euro of the total assets of AIFs domiciled in Europe³³). Furthermore, as shown by Table 3, after a positive trend in years 2016-2018 (in light of the first enforcement cases following the entry into force of the AIFMD), there is a declining trend in the financial amount of sanctions issued during the last four years.

Table 3: global overview of the financial amount of penalties issued under the AIFMD in 2013-2022 subtracting the highest single penalties³⁴

	Total amount of penalties in € A	Highest single penalty(ies) in € B	(A-B) (amounts in €)
2013	~72,338	~72,338	-
2014	~312,115	~312,115	-
2015	~75,000	~75,000	-
2016	~944,812	~942,962	-1,850
2017	~36,799,531	~36,608,900	-190,631
2018	~4,459,000	~3,482,000	~977,000
2019	~9,000,000	~8,065,000	~935,000

³¹ See previous footnote.

³² This amount is mostly made up of high cumulative sanctions issued by the Czech Republic (43 penalties), Hungary (46 penalties) and Romania (18 penalties).

³³ Source: EFAMA report available at [230228_EFAMA_Quarterly_Statistical_Release_Q4_2022.pdf](#). For Estonia, Latvia and Lithuania, which are not included in the EFAMA report, ECB data as of 31/12/2022 was used instead. Data for Iceland was not available.

³⁴ See footnote 30.

	Total amount of penalties in € A	Highest single penalty(ies) in € B	(A-B) (amounts in €)
2020	~3,354,407	~2,723,726	~630,681
2021	~42,902,420	~42,574,289	~328,131
2022	~2,514,157	~2,262,420	~251,737

Table 4: overview of penalties issued under the AIFMD in 2013-2022 by NCAs in relevant Member States ranked by total amount of financial penalties³⁵

Member State	Number of penalties	Total amount of financial penalties (EUR million)	Total net assets of AIFs (Q4 2022) (EUR million) ³⁶
France	19	79.14	1,260,199
Poland	28	14.41	36,430
Italy	63	2.90	112,219.1
Portugal	31	1.99	13,041.4
Luxembourg	21	1.01	950,733
Hungary	176	0.47	21,955.4
Czech Republic	87	0.2	2,485.1
Greece	1	0.05	5,045.9
Slovenia	4	0.04	512.6
Belgium	2	0.04	2,102.8
Croatia	3	0.04	666.6
Liechtenstein	4	0.03	35,051.5
Spain	1	0.03	34,018
Romania	28	0.03	5,307.3
Netherlands	1	0.03	702,090.1
Slovakia	2	0.02	2,800.8
Malta	5	0.02	17,044.2
Cyprus	1	0.02	6,903

³⁵ The financial amount of penalties that can be issued by an NCA is regulated under national law and not harmonised at EU level.

³⁶ See footnote 33.

Member State	Number of penalties	Total amount of financial penalties (EUR million)	Total net assets of AIFs (Q4 2022) (EUR million) ³⁷
Austria	3	0.01	107,951
Bulgaria	-	-	128.8
Denmark	-	-	124,994.4
Estonia	-	-	5,944
Finland	-	-	19,501.9
Germany	-	-	2,139,033
Ireland	-	-	841,429
Latvia	-	-	310
Lithuania	-	-	2,277
Sweden	-	-	24,995.4
Norway	-	-	-
Iceland	-	-	N.A.
Total	480	100.45	6,475,170

15. During the period 2013-2022, no penalties were issued under the AIFMD in the following Member States:

Table 5: Member States where no penalties were issued in 2013-2022

Member States where no penalties were issued	
2013-2022	Bulgaria, Denmark*, Estonia*, Finland*, Germany*, Ireland, Latvia*, Lithuania, Sweden, Norway*, Iceland*

* Member States where no penalties were issued under the UCITS Directive either during the reporting period 2016-2022

16. In order to put the data gathered into context, the below charts provide an overview of the proportion of the net assets of the EU AIF industry per Member States (Chart 1), the proportion of the total amount of financial penalties issued under the AIFMD in 2013-2022 per Member States (Chart 2) as well as a combined representation of these data (Chart 3).

³⁷ See previous footnote.

Chart 1: Net assets of the EU AIF industry (Q4 2022) by country of domiciliation³⁸

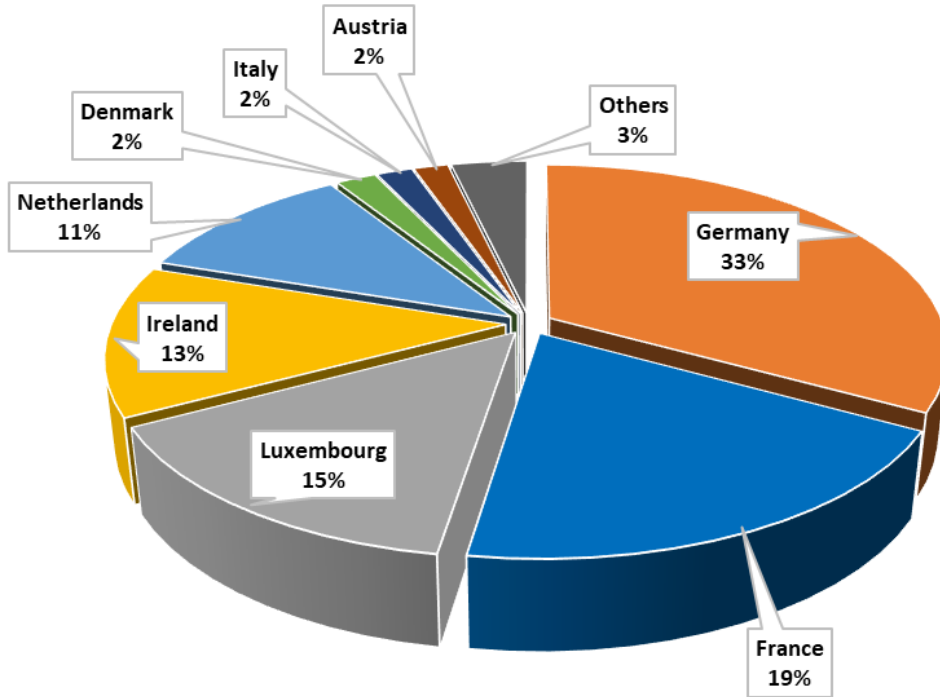
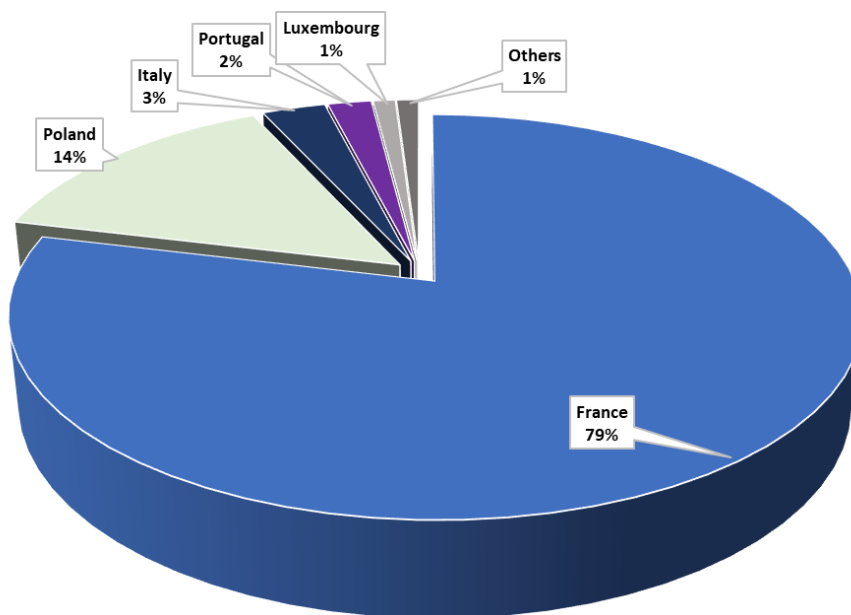
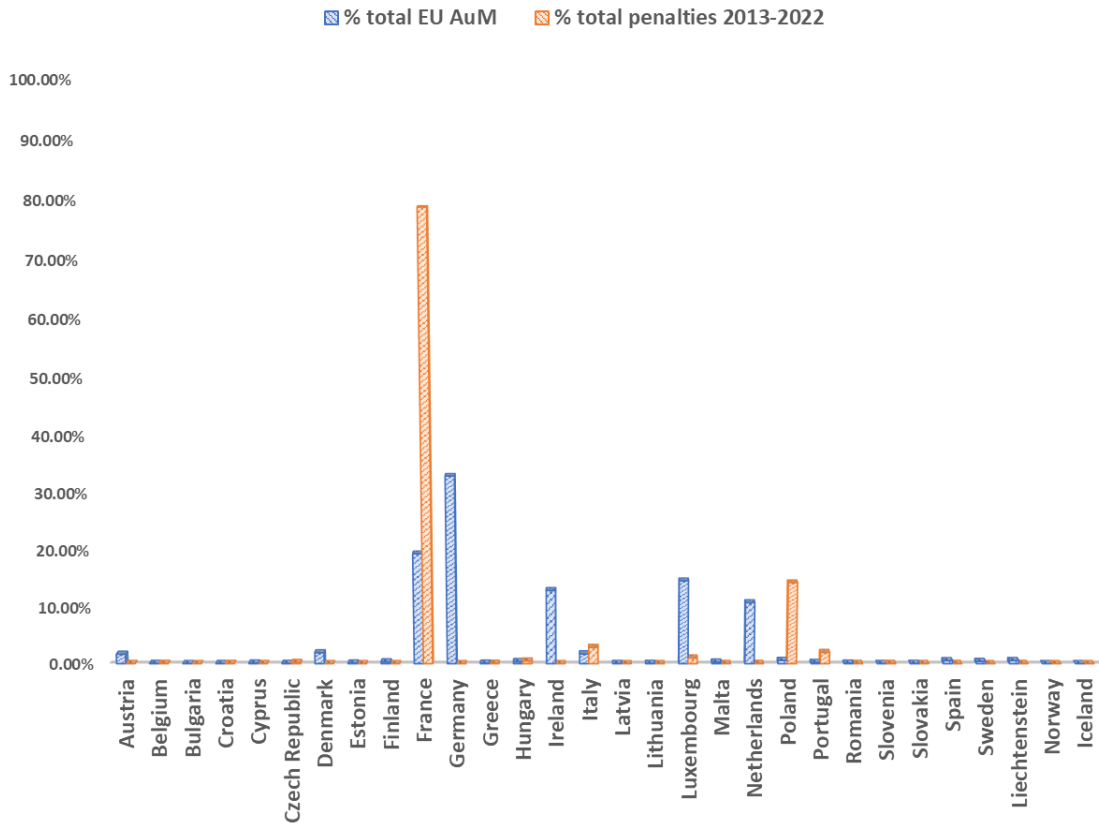


Chart 2: Amount of financial penalties issued under the AIFMD by Member State 2013-2022



³⁸ See previous footnote.

Chart 3: % of total net assets of the EU AIF industry (Q4 2022) by country of domiciliation³⁹ vs. % of total amount of financial penalties issued under the AIFMD in 2013-2022 per Member State



6.2 Observations on measures

17. The below tables provide an overview of aggregated figures on measures issued under the AIFMD during the reporting periods 2013-2022:

Table 6: global overview of measures issued by NCAs under the AIFMD in 2013-2022

	Number of NCAs which issued measures	Total number of measures
2013	1	8
2014	3	6
2015	2	16
2016	5	23
2017	8	64

³⁹ See previous footnote.

	Number of NCAs which issued measures	Total number of measures
2018	10	34
2019	12	42
2020	12	70
2021	6	62
2022	10	146

Table 7: overview of measures issued under the AIFMD in 2013-2022 by NCAs in relevant Member States ranked by number of measures⁴⁰

Member State	Number of measures
Hungary	196
Czech Republic	72
Liechtenstein	46
Romania	34
Croatia	30
Denmark	25
Netherlands	16
Austria	8
Belgium	8
Slovenia	7
France	6
Poland	6
Germany	3
Greece	3
Italy	3
Portugal	3
Malta	2
Cyprus	1
Finland	1
Norway	1
Total	471

⁴⁰ Member States whose NCAs have not imposed measures during the period 2013-2022 are not reflected in this table.

18. During the period 2013-2022, no measures were issued under the AIFMD in the following Member States:

Table 8: Member States where no measures were issued in 2013-2022

Member States where no measures were issued	
2013-2022	Bulgaria*, Estonia*, Ireland*, Latvia*, Lithuania, Luxembourg, Slovakia*, Spain*, Sweden, Iceland

* Members States where no measures were issued under the UCITS Directive either during the reporting period 2016-2022

6.3 Concluding observations

19. ESMA acknowledges that the issue at hand can be complex and multifaceted and that no automatic parallelism should be drawn between the number/amount of sanctions (penalties and measures) issued by the relevant NCA and the quality of their supervisory activity. Notwithstanding this, ESMA considers the above data as useful information to prompt discussions with NCAs on the use of sanctioning measures.
20. As highlighted in previous occasions⁴¹, ESMA acknowledges many NCAs' general preference to use escalated supervisory measures instead of taking enforcement measures (in particular, penalties). In this context, ESMA reiterates the importance of using the full range of the supervisory and enforcement toolkit they have been provided with by the AIFMD. This is particularly important in light of the requirement under the AIFMD framework for Member States to ensure the existence of sanctions that are "*effective, proportionate and dissuasive*".⁴² Against this background, ESMA would like to encourage NCAs to consider the use of sanctions in case of significant regulatory breaches.
21. Work will continue in the future (including by issuing the relevant annual report on sanctions) to promote further convergence in the use of sanctioning powers by NCAs across the EU.

⁴¹ See, *inter alia*, the Final Report on the 2022 CSA on valuation (ESMA34-45-1802), available at [ESMA34-45-1802_2022_CSA_on_Asset_Valuation_-_Final_Report.pdf \(europa.eu\)](#).

⁴² See Article 48(1) of the AIFMD.