

Class Actions

## Securities Class Actions Hit Record High in First Half of 2017

### BNA Snapshot

- Securities class action filings reached record level in first half of 2017
- Increase due to migration of merger claims, more plaintiffs lawyers, sources say



By Antoinette Gartrell

A record number of would-be class securities fraud suits—226—were filed in the first half of 2017, according to a Cornerstone Research and the Stanford Law School Securities Class Action Clearinghouse report released July 25.

The number of new lawsuits is the highest for the first half of any year since enactment of the 1995 Private Securities Litigation Reform Act, which heightened class securities fraud pleading requirements. It's also a 49 percent spike from the second half of 2016, the data showed.

In the past six months, 4.7 percent of U.S. exchange-listed companies were sued in securities class actions. At that rate, 9.5 percent will be the subject of filings by year end—the highest since 1997, the report said.

Both traditional and M&A-related filings were at record levels. Traditional filings increased from 95 in the second half of 2016 to 131 in the first half of 2017. At the same time, M&A-related filings rose from 57 to 95. If the litigation rate of traditional securities class actions in the second half of 2017 equals that of the first half, the annual rate will nearly double the historical average, Dr. John Gould, a senior vice president at Cornerstone Research, told Bloomberg BNA.

The report also showed that filings against European-headquartered firms were nearly triple the historical semiannual average and 83 percent higher compared to the second half of 2016. British and Irish companies accounted for nine of the 11 filings.

Gould said there are so few such lawsuits against non-U.S. issuers that the increase still doesn't reflect a large number of cases. "It could also be volatility within the U.S. market," he said. Securities litigation lawyer Robert Giuffra Jr. of Sullivan & Cromwell LLP, New York, said market volatility and an increase in the number of plaintiffs lawyers could factor into the rise in filings.

Pharmaceutical firms were the most common targets of filings, with 28 lawsuits out of the total 85 involving biotechnology, health care, and other firms in the consumer non-cyclical sector.

"The most likely explanation is that individualized issues impacting firms in those sectors caused the increases in filings rather than some larger, macro-economic factors," Washington securities lawyer Daniel Sommers, Cohen Milstein Sellers & Toll PLLC, told Bloomberg BNA.

### Booming Circuits

Filings within the Third Circuit increased to 47, more than triple the number of filings in either the first or second half of 2016. The Second and Ninth Circuits remained the most popular jurisdictions for filing class actions.

"Delaware, where many companies are incorporated, is in the Third Circuit," Giuffra told Bloomberg BNA. "That's where plaintiffs can get jurisdiction."

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**For More Information**

To view the report, visit: <https://www.cornerstone.com/Publications/Reports/Securities-Class-Action-Filings-2017-Midyear-Assessment>