

Class Actions

## Securities Class Actions Hit 20-Year High: Report

### BNA Snapshot

- Securities class action filings in 2016 rose to highest level in 20 years
- Spike largely due to suits over merger and acquisition transactions, report says



By Antoinette Gartrell

Securities class action filings last year rose to the highest level in 20 years, according to a Cornerstone Research and Stanford Law School Securities Class Action Clearinghouse report released Jan. 31.

There were 270 securities class lawsuits filed in 2016, 82 more than in the previous year, and 44 percent above the 1997-2015 historical average of 188 filings, the report said. The increase was largely due to 80 suits over merger and acquisition transactions, more than four times more than in 2015, according to the report. The number of M&A filings in 2016 marks the highest number of federal filings in a single year since 2009—the year the report began tracking them separately.

### Notable Trends

The report also showed an increase in the number of filings against foreign issuers. Suits against European issuers, in particular, rose to a 20-year high, with 15 filings in 2016.

Washington lawyer Daniel S. Sommers of Cohen Milstein Sellers & Toll PLLC told Bloomberg BNA in an e-mail that he isn't aware of any systemic factors that may have contributed to the increased number of filings against non-U.S. issuers. The increase is most likely driven by company-specific factors, he said.

Robert Giuffra Jr., Sullivan & Cromwell LLP, New York, agreed. It's "probably just an anomaly and doesn't necessarily mean that it's part of a trend against non-U.S. issuers," he told Bloomberg BNA in a telephone conversation.

Sommers said that "anecdotally," he has noted an increase in the number of cases against non-U.S. issuers based on alleged antitrust or Foreign Corrupt Practices Act violations.

Class action filings against companies in the financial sector doubled to 34, after dropping to 17 in 2015.

Last year approximately one in 25, or 3.9 percent, of companies listed on a U.S. exchange was the subject of a class action, the report said.

### Most Popular Circuits

Filings in the Ninth Circuit increased to a record 86 in 2016, the report showed. Of those, 24 were M&A filings. The Second and Ninth Circuits combined accounted for 56 percent of all filings.

Those circuits are viewed as more plaintiff friendly than others, particularly on class-action pleading issues, Giuffra said.

Suits against biotechnology and health-care firms more than doubled last year.

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To contact the reporter on this story: Antoinette Gartrell in Washington at [agartrell@bna.com](mailto:agartrell@bna.com)

To contact the editors responsible for this story: Phyllis Diamond at [pdiamond@bna.com](mailto:pdiamond@bna.com); Seth Stern at [sstern@bna.com](mailto:sstern@bna.com)

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To view the report, visit: <https://www.cornerstone.com/Publications/Reports/Securities-Class-Action-Filings-2016-YIR>