WOODRUFF SAWYER & COMPANY

D&O Databox Flash Report

MAY 2011

D&O DATABOX – SECURITIES CLASS ACTION FIRST QUARTER REPORT
(AS OF MARCH 31, 2011)

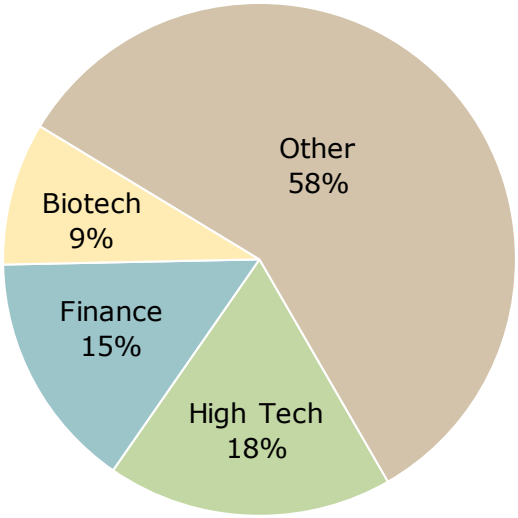
Woodruff-Sawyer & Co. is pleased to present the latest information concerning securities litigation filed against public companies in the United States. The information below comes from the D&O Databox as of March 31, 2011. The D&O Databox tracks securities class action litigation filed against public company issuers and their directors and officers.[1] Settlement figures include amounts paid by issuers, their directors and officers, and insurance carriers. Settlement figures exclude amounts paid in settlement by third party defendants.

NEW CASES

2011 started off slowly for securities class action lawsuit filings, but picked up dramatically with a 70% increase in February. By the end of the first quarter, plaintiffs had filed a total of 33 cases. The increased activity in filings this past quarter is largely attributable to cases filed against China-based companies (18% of the total filings). Various news and analyst reports have focused on dormant U.S. public companies that have been acquired by Chinese businesses through reverse mergers and their dubious accounting practices and standards. The plaintiffs' bar has been actively pursuing cases against these companies and they show no signs of slowing down the pace. In fact, thirteen cases involving Chinese companies have been filed in April – a 117% increase in just the first month of the second quarter as compared to the 1Q11 total of six cases against Chinese companies.

The High Technology and Finance industry sectors continue to consistently lead the pack in the number of cases filed against them (18% and 15% of 1Q11 cases). In the "Other" category, the Mfg/Durable sector was comprised entirely of filings against Chinese companies.

Securities Class Action Cases by Industry: 1Q11



Other Sectors Breakdown	
Mfg/Durable	- 15% of All Cases
Trade	- 12% of All Cases
Energy	- 12% of All Cases
Mfg/Non-Durable	- 9% of All Cases
Services	- 6% of All Cases
Transportation	- 4% of All Cases

[1] *For purposes of tracking issuer-related securities litigation, the D&O Databox focuses exclusively on securities class action lawsuits filed in federal courts against public companies by holders of common or preferred stock.*

A Note on M&A Lawsuits:
In our last Flash Report, we discussed the surge in breach of fiduciary duty lawsuits related to proposed mergers. There were over 250 M&A-related cases filed in 2010. Activity in this area has not abated – 86 cases were filed in 1Q11. If the pace of filings continues in 2011 at the first quarter rate, there may be a 30% rise in M&A cases over last year.

SETTLEMENTS

- 1Q11 average and median settlement: $24.5 and $8.9M
- Prior 10-year average and median settlement: $26.8M and $6.9M (excl. three $1B+ settlements)

Eleven companies executed agreements to settle in 1Q11 for an aggregate amount of approximately $263.7M (excluding third party defendants). The most notable and largest settlement of $125M was by Satyam Computer Services Limited. The company, headquartered in India (and which is now known as Mahindra Satyam), became known as "India's Enron" when the former Chairman revealed broad accounting improprieties overstating the company's revenues and profits, including a non-existent but reported cash holding of $1.4B. Notable features of this settlement include:

- Inclusion of U.S. residents who bought company shares on Indian stock exchanges. As highlighted in a previous Flash Report, the impact of the U.S. Supreme Court's decision on "Morrison v. National Australia Bank" has resulted in the exclusion of 'f-squared"[2] claimants in several cases. While the company had initially sought to dismiss these claimants from the suit, it ultimately decided to settle with them—but for a much lesser proportional amount (90% less than claimants who purchased their shares on the NYSE).

- Agreement that, should the company decide to sue their former auditor (PricewaterhouseCoopers LLP and related entities), 25% of any amounts recovered will go to the settling claimants.

- Agreement that $1.0M of the settlement be set aside to fund the case's claims against the non-settling defendants which, besides PwC, also includes the former officers and directors. (Three of the ten individuals have been criminally indicted by the Indian government.) This is a highly unusual stipulation and raises a red flag for other defendants who have yet to settle.

From the information that is publicly available, it appears that the company is funding the settlement and that no insurance coverage is involved. There is no way to know if this is due to exhaustion of coverage due to payment of defense costs, to carriers seeking to rescind coverage or some other exclusion from coverage.

Satyam has also recently announced that they have reached a settlement with the SEC to pay a civil penalty of $10M. These recent events indicate that Satyam is on a mission to move on from the past with U.S. investors, but are also putting the pressure on the remaining defendants to settle up with the U.S. claimants (PwC has recently announced a tentative settlement deal of $25.5M).

It is interesting to note that the second largest settlement in 1Q11 also involved a foreign company who agreed to settle with "f-squared" claimants (U.S. residents who purchased shares on the Swiss exchange) for a lesser amount as well. Credit Suisse recently reached an agreement to settle for $70M in which 10% of the settlement will go to the "f-squared" claimants and the remaining 90% will go to the claimants who acquired their ADRs on the NYSE. It is too early to tell if this will be a trend, but both the defendant companies and plaintiffs' bar are surely weighing the alternatives of protracted court proceedings and the possible risk facing "f-squared" claimants who may be denied any restitution in the U.S. courts.

Although the Credit Suisse settlement is currently one of the top five settlements for cases related to the credit crises, there are many more open "credit crises" cases that are yet to be resolved. Of the 122 cases we are tracking, 17 have settled (14% totaling $1.5B), 32 cases have been dismissed (26%) and 73 cases have yet to be resolved (60%). Even though a quarter of the

[2] *In the parlance of the day, an "f-squared" claimant is a U.S. resident who purchased shares of a foreign company on a foreign exchange.*

cases have been dismissed to date, open cases involving high-profile, large market cap companies still might result in large cash settlements that in the aggregate could affect the D&O insurance market.

DISMISSALS

15 cases were dismissed by the courts in 1Q11. They break down as follows:

By Year Filed	By Industry
• 2 - 2010 lawsuits	• 7 - All Other Industries
• 7 - 2009 lawsuits	• 4 - High Technology
• 1 - 2008 lawsuit	• 3 - Finance
• 4 - 2007 lawsuits	• 1 - Biotechnology
• 1 - 2003 lawsuit	

PHARMACEUTICAL COMPANIES TAKE NOTE:

Recent Supreme Court Decision – *Matrixx Initiatives, Inc. v. Siracusano*

We noted in our last Flash Report this securities class action case was up before the Supreme Court. The case was filed in 2004 alleging that the company failed to disclose a link between their nasal spray product, Zicam, and anosmia (the loss of the sense of smell) after having becoming aware of adverse event reports that more than ten patients had lost their sense of smell after using the product. Zicam sales accounted for up to 70% of their product revenues and, when news reports of the possible link were broadcasted in 2004, the company's stock price dropped significantly. The company recalled the product several years later after an FDA warning was issued on the product.

The company argued before the Supreme Court that there was no statistically significant risk and thus the adverse reports did not meet the materiality test for public disclosure. The Supreme Court rejected the company's argument in favor of a statistical significance's being a bright line test for materiality when it comes to determining whether or not a company had made material misstatements and omissions. Instead, the Supreme Court affirmed the standard for materiality remains that which a reasonable investor would view as significant to the total mix of information available. The ruling is noteworthy in that it highlights the potential risk for liability when pharmaceutical companies delay or fail to acknowledge adverse event reports related to leading products and the importance of careful analysis of disclosure issues in a broader context. Most importantly, it is now clear that an incident does not have to be statistically significant to be material.

ABOUT THE D&O DATABOX

D&O Databox is Woodruff-Sawyer & Co.'s proprietary director and officer litigation database. Included within the D&O Databox is information concerning every securities class action lawsuit filed against public company directors and officers since 1988. Woodruff-Sawyer uses the D&O Databox to help its client model their D&O litigation-related risk. For more information about the D&O Databox, please contact Donna Moser (dmoser@wsandco.com or 415.402.6526).