

# The LIAISON



# Contents and EXECUTIVE SUMMARY

## EXECUTIVE SUMMARY

Labaton Sucharow is pleased to present *The Liaison: 2020 Mid-Year Report*. The Firm has been a pioneer in protecting clients' interests in non-U.S. litigation. With its nearly 20 years of experience abroad, and deep relationships with law firms around the world, Labaton Sucharow has a unique perspective on investment-related issues and recovery opportunities outside the United States. Featured in this edition are:

- Recent settlements in non-U.S. securities matters;
- Noteworthy developments regarding securities litigation in Australia;
- Ramifications of the recent U.S. decision in the Toshiba class action;
- Summary of the newly-proposed Westpac action in Australia;
- Updates on select pending non-U.S. securities actions; and
- Deadlines for participation in non-U.S. actions and for the submission of settlement claims.

We would be happy to provide more comprehensive assessments and recommendations with regard to any of the topics discussed or highlighted in *The Liaison*.

With best regards,

Labaton Sucharow LLP

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# Trends in Non-U.S. SECURITIES CLASS ACTION LITIGATION

## SECURITIES FRAUD RECOVERIES IN NON-U.S. JURISDICTIONS IN 2019

MATTER NAME	JURISDICTION	SETTLEMENT AMOUNT <sup>1</sup>
QBE Insurance Group Limited	AUSTRALIA	A\$132,000,000 (U.S. \$85,345,920)
Vocus Group Limited	AUSTRALIA	A\$35,000,000 (U.S. \$22,351,000)
Treasury Wine Estates Limited	AUSTRALIA	A\$49,000,000 (U.S. \$31,681,440)
Murray Goulburn Co-operative Co. Limited	AUSTRALIA	A\$42,000,000 (U.S. \$27,155,520)
Sirtex Medical Limited	AUSTRALIA	A\$40,000,000 (U.S. \$25,862,400)
Bellamy's Australia Limited	AUSTRALIA	A\$33,694,612 (U.S. \$21,785,588)
CIMIC Group Limited (f/k/a/ Leighton Holdings Limited)	AUSTRALIA	A\$32,400,000 (U.S. \$20,948,544)
Forge Group Limited	AUSTRALIA	A\$16,500,000 (U.S. \$10,668,240)
Cash Converters International Limited	AUSTRALIA	A\$16,400,000 (U.S. \$10,603,584)
Amaya Inc.	CANADA	C\$22,447,837 (U.S. \$16,000,033)
Ashley Services Group Limited	AUSTRALIA	A\$14,600,000 (U.S. \$9,431,016)
Discovery Metals Limited (KPMG Financial Advisory Services)	AUSTRALIA	CONFIDENTIAL

The list above makes clear that Australia continues to be a hotbed for securities class action litigation outside of the United States. While the Netherlands holds the record for the largest non-U.S. securities litigation recovery (\$1.5 billion recovery from Fortis/Ageas approved by the court in July 2018), the cumulative recovery from Australian investor class actions over the years (in excess of \$1.5 billion total<sup>2</sup>) remains substantial. More than 70 proposed shareholder class actions were filed in Australian courts in the last five years—the most outside of the United States. As reflected in the chart below, the volume of actions proposed in Australia and other non-U.S. jurisdictions continues to hold steady, and we expect it will only continue to increase.

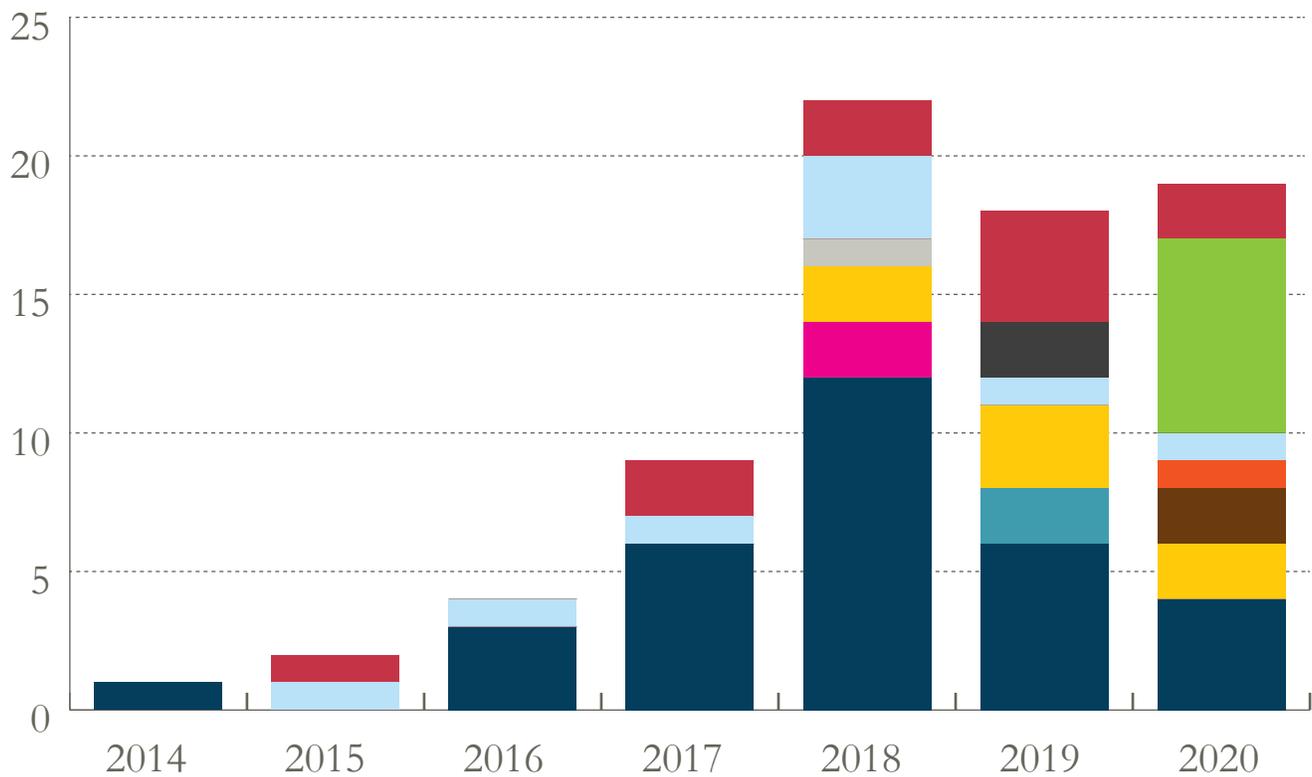
<sup>1</sup> Conversion rates are as of May 4, 2020.

<sup>2</sup> Based on data assembled by Institutional Shareholder Services Inc.'s Securities Class Action Services.

# Trends in Non-U.S. SECURITIES CLASS ACTION LITIGATION

## NON-U.S. LITIGATION FILINGS BY JURISDICTION 2014-2020

More than 70 proposed shareholder class actions were filed in Australian courts in the last five years—the most outside of the United States. As reflected in the chart below, the volume of actions proposed in Australia and other non-U.S. jurisdictions continues to hold steady, and we expect it will only continue to increase.



### NON-U.S. JURISDICTIONS



<sup>3</sup> Based on data compiled by Institutional Shareholder Services Inc.'s Securities Class Action Services. Accurate as of May 6, 2020.

A night-time photograph of the Sydney Opera House, illuminated with lights, set against a dark blue sky and the city skyline of Sydney in the background. The water of the harbor is visible in the foreground.

# CHANGES TO THE LANDSCAPE FOR SECURITIES CLASS ACTIONS IN AUSTRALIA

**“The High Court’s ruling [prohibiting the issuance of common fund orders early in class actions] is ‘no great disaster.’”**

— Justice Bernard Murphy of the Federal Court of Australia  
as quoted by Christine Caulfield of *Lawyerly*

## CHANGES TO THE LANDSCAPE FOR SECURITIES CLASS ACTIONS IN AUSTRALIA

Toward the end of 2019, two rulings by Australian courts concerning class actions made waves in the securities class action industry. However, upon further analysis, not much is likely to change for investors participating in Australian securities class actions.

### IMPLICATIONS OF RECENT DECISION ON THE FUTURE OF LITIGATION FUNDING AND OPEN CLASS ACTIONS

*BMW Australia Ltd v. Brewster; Westpac Banking Corporation v. Lentball* [2019] HCA 45

In December 2019, the High Court of Australia held that neither the Federal Court of Australia nor the Supreme Court of New South Wales has the power to issue “common fund orders” in the early stages of litigation. Common fund orders require all group members in a class action to contribute equally to the legal and litigation funding costs of a class action in the event of a recovery from defendants, regardless of whether a group member is an active participant (having signed a funding agreement) or passive participant.

Courts had been issuing common fund orders since *the Money Max v. QBE Insurance* decision in 2016.<sup>4</sup> Common fund orders made funders comfortable with pursuing class actions structured on an open (*i.e.*, opt-out) basis because they eliminated the potential problem of “free riders” who do not have to pay fees to

funders. Some funders now plan to revert to a closed (*i.e.*, opt-in) class action structure, which is akin to a U.S. opt-out action in which an investor must sign up to participate under a litigation funding agreement early in a case in order to partake in any recovery that may be achieved.

If funders shift to a closed action model, it may generate an increasing number of competing actions through which investors must sift. This ruling also is likely to have a chilling effect on the number of new litigation funders entering the Australian market, which has been growing at a rapid clip in recent years. It is expected that courts will address concerns about free-riders with funding “equalization orders” at the end of proceedings, which were endorsed by the Federal Court in guidance issued on December 20, 2019; however, these orders do not give funders certainty of recovering fees from passive investors at the start of a case, and they give funders less say over their commissions. Funder concerns have been underscored by a recent ruling in the *Vocus* class action settlement, which rejected an application for common fund orders in the settlement phase and dramatically reduced the commission amounts sought by the funders.<sup>5</sup>

<sup>4</sup> *Money Max Int'l Pty Ltd (Trustee) v. QBE Insurance Group Limited* [2016] FCAFC 148.

<sup>5</sup> *Michael and Tracey Fisher as Trustees for the Triamk Super Fund Trust v. Vocus Group Limited* [2019] VID419.

## CHANGES TO THE LANDSCAPE FOR SECURITIES CLASS ACTIONS IN AUSTRALIA

Funders may face further challenges, as the government in the state of Victoria is considering whether contingency fees should be permitted in Australia. If they are, it could eliminate the need for litigation funders. Some have called this a “backdoor” for common fund orders. If it is enacted, “the change will likely make Victoria a magnet for class action litigation, unless other states and the [Australian] federal parliament follow suit.”<sup>6</sup>

### IMPLICATIONS FROM FIRST JUDGMENT IN AUSTRALIAN SECURITIES CLASS ACTION

*TPT Patrol Pty Ltd as trustee for Amies Superannuation Fund v. Myer Holdings Limited* [2019] FCA 1747

Last year, for the first time, an Australian securities class action did not settle before trial and proceeded through trial to a court judgment. While the decision was a mixed bag for investors, it was positive overall. In October 2019, the court found that Myer Holdings had breached its continuous disclosure obligations in connection with misleading guidance it issued to the market. However, the court also held that

Myer Holdings’ misconduct might not have caused the shareholders any loss. The court reasoned that the misconduct did not give rise to meaningful share price inflation because analysts’ and market makers’ concerns were already baked into the stock price, countering the CEO’s inflated guidance.

Essentially, the court held that the market knew better than to believe the guidance, though the company was still obligated to correct it. This holding particularly applied to institutional investors who had access to analysts’ consensus estimates and may leave the door open for arguments that retail investors should be entitled to a recovery. In another (not unexpected) move, the court did endorse the theory that market-based causation (*i.e.*, the fraud-on-the-market presumption) is sufficient to demonstrate damages in a shareholder class action.

While investors may not recover from this action, aspects of the ruling certainly were favorable. Tim Finney, a Principal at the class action law firm Phi Finney McDonald, called the judgment “incredibly helpful on quite a few issues of liability.”<sup>7</sup> Funders also have confidence now that they will not have to prove reliance on corporate misrepresentations, which may lead them to pursue more cases. In addition, this ruling may increase the willingness of public companies to come to the settlement table, fearing adverse findings at trial—leading to greater opportunities and leverage for investor recoveries.

<sup>6</sup>Michael Legg, “Group Costs Orders Raise Thorny Questions,” *The Australian*, Jan. 31, 2020.

<sup>7</sup>Sarah Danckert, “As Landmark as It Gets: Why the Myer Class Action Has Everyone Talking,” *Sydney Morning Herald*, Oct. 26, 2019.



**A NEW OPPORTUNITY  
FOR U.S. INVESTORS  
TO SEEK RECOVERY  
IN THE UNITED STATES  
FOR THE LOSSES ON  
SHARES PURCHASED  
ABROAD?**

## A NEW OPPORTUNITY FOR U.S. INVESTORS TO SEEK RECOVERY IN THE UNITED STATES FOR THE LOSSES ON SHARES PURCHASED ABROAD?

*Stoyas v. Toshiba Corp.*, No. 15-cv-04194, Dkt. No. 88 (C.D. Cal. Jan. 28, 2020)

Despite having been cited in a NAPPA white paper as an example of how the U.S. Supreme Court's *Morrison v. National Australia Bank* decision impedes investor recoveries for non-U.S. securities in U.S. courts, a recent decision by the U.S. District Court for the Northern District of California in the Toshiba action may present one of the first class action opportunities since *Morrison* for U.S. investors in foreign securities to seek a recovery in a U.S. court.

The Toshiba action brings claims pursuant to the Securities Exchange Act of 1934 (the "Exchange Act") and the Financial Instruments & Exchange Act of Japan ("JFIEA"). The proposed class includes (1) all persons who purchased Toshiba American Depositary Receipts ("ADRs") and Toshiba F-Shares on the Over-the-Counter Market ("OTC"), and (2) U.S. citizens and residents

who purchased Toshiba common stock sold under the ticker symbol 6502 on the Tokyo and Nagoya stock exchanges in Japan during the class period spanning from May 8, 2012, through November 12, 2015. The JFIEA claims apply to the second group of investors—U.S. purchasers of ordinary shares on Japanese markets.

Following a successful appeal to the Ninth Circuit Court of Appeals, on remand, the District Court reconsidered its dismissal of the Exchange Act claims concerning ADRs that traded OTC. In a January 28, 2020, opinion, the Court found that plaintiffs sufficiently alleged facts that met all of the elements for the claims at issue—*i.e.*, a domestic transaction pursuant to the Exchange Act and that defendants' conduct was "in connection with" plaintiffs' purchase of ADRs. The Court also held that principles of comity<sup>8</sup> did not require dismissal because plaintiffs alleged a U.S. transaction and plaintiffs were U.S. nationals, giving U.S. courts a significant interest in regulating the securities transactions at issue. In addition, because plaintiffs adequately alleged a violation of the Exchange Act, the Court (without much detail) ruled that the doctrine of forum non conveniens<sup>9</sup> did not compel dismissal of the JFIEA claims. As part of that brief analysis, the Court noted that defendants only had challenged the JFIEA claims by citing to a briefing on the earlier motion to dismiss, which the Court declined to consider.

<sup>8</sup>Comity is the legal principle that political entities (such as states, nations, or courts from different jurisdictions) will mutually recognize each other's legislative, executive, and judicial acts.

<sup>9</sup>Forum non conveniens is a doctrine allowing a court with jurisdiction over a case to dismiss it because the convenience of the parties and the interest of justice would be better served if the case were brought in a court having proper jurisdiction in another venue.

## A NEW OPPORTUNITY FOR U.S. INVESTORS TO SEEK RECOVERY IN THE UNITED STATES FOR THE LOSSES ON SHARES PURCHASED ABROAD?

Investors considering withdrawal from those actions may be liable for costs to funders, and we believe withdrawing from those actions is premature at this juncture. We are continuing to monitor the U.S. action and will advise you if our recommendation changes.

Defendants may well appeal this ruling, particularly regarding the JFIEA claims. Had defendants more vigorously briefed the issue, the District Court may have ruled differently.

Even if the ruling stands, courts likely will apply it sparingly. U.S. courts only may be comfortable applying foreign law in limited circumstances: (1) when there is a track record in the jurisdiction of prior securities actions that provide guidance on legal interpretation and (2) when the laws of the jurisdiction resemble U.S. securities law. Examples of countries that meet such criteria are Canada, Australia, Japan, and Israel. Of course, these are jurisdictions where investors already have been able to secure recoveries outside of the United States following *Morrison*.

The allegations concerning accounting fraud underlying the U.S. class action are analogous to those in the group actions proceeding in Japan. Those actions function as opt-out actions from the U.S. case.

<sup>8</sup>Comity is the legal principle that political entities (such as states, nations, or courts from different jurisdictions) will mutually recognize each other's legislative, executive, and judicial acts.

<sup>9</sup>Forum non conveniens is a doctrine allowing a court with jurisdiction over a case to dismiss it because the convenience of the parties and the interest of justice would be better served if the case were brought in a court having proper jurisdiction in another venue.

## WESTPAC BANKING CORPORATION

“Australia’s financial intelligence unit . . . announced that it had commenced civil proceedings against Westpac in relation to 23 million serious contraventions of [Australia’s anti-money laundering act].”

Australian boutique securities litigation firm Phi Finney McDonald filed a class action in December 2019 against Westpac Banking Corporation (“Westpac”), one of Australia’s “big four” banks and Australia’s first and oldest banking institution. The action brings claims that, from December 16, 2013, through November 19, 2019, Westpac failed to disclose that it had been engaging in systemic and prolonged violations of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (the “AML/CTF Act”).

The truth was revealed on November 20, 2019, when the Australian Transaction Reports and Analysis Centre (“AUSTRAC”), which is Australia’s financial intelligence unit and anti-money laundering and counterterrorism financing regulator, announced that it had commenced civil proceedings against Westpac in relation to 23 million serious contraventions of the AML/CTF Act. These included failing to perform appropriate due diligence on transactions in southeast Asia and the Philippines that had known financial indicators relating to child exploitation—despite being aware of heightened risks.

**PRIMARY EXCHANGE:** Australian Stock Exchange (ASX)

**TICKER:** WBC

**JURISDICTION:** Australia

**ACTION TYPE:** Closed Class Action

**FUNDER(S) / LOCAL COUNSEL:** (1) Woodsford Litigation Funding Ltd./Phi Finney McDonald, (2) Burford Capital; Johnson Winter & Slattery

**LONGEST RELEVANT PERIOD(S):** 11.20.2013 – 11.19.2019

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In reaction to this disclosure, the price of Westpac ordinary shares trading on the ASX fell A\$2.11 per share, or 7.95%, to close at A\$24.44 per share—eliminating A\$7.5 billion in market capitalization.

In the aftermath of this announcement, Westpac advised the Federal Court of Australia that it intends to admit to the majority of the allegations advanced by AUSTRAC. In the AUSTRAC proceeding, Westpac could be liable for a civil penalty of up to \$21 million *per contravention*. Commonwealth Bank of Australia was fined a record A\$700 million in 2018 for serious breaches of the AML/CTF Act.) The Australian Federal Police and the Australian Prudential Regulation Authority also are investigating Westpac’s conduct. Counsel for the filed action intend to seek to impose corporate governance reforms on Westpac, which would be a new approach for an Australian securities class action.

We would be happy to discuss with you the specifics of this Australian action against Westpac and the options for recovery.

“AUSTRALIA’S CONTINUOUS DISCLOSURE OBLIGATIONS ARE PROVING FERTILE TERRITORY FOR THE GROWING NUMBER OF PROCEEDINGS BASED ON LOSSES DUE TO SHARE PRICE DROPS—ON THE GROUNDS THE REASONS SHOULD HAVE BEEN MADE PUBLIC EARLIER.” – Jennifer Hewett, “The Rise and Rise of Class Actions,” *Financial Review*, October 2019

- 
- AUSTRALIA
  - BRAZIL
  - DENMARK
  - GERMANY
  - JAPAN
  - NETHERLANDS
  - NEW ZEALAND
  - UNITED KINGDOM

LABATON SUCHAROW IS TRACKING  
(AND MAY ALSO SERVE AS LIAISON  
COUNSEL IN) THE FOLLOWING CASES:

# Ongoing CASE STUDIES

EUROPE



## GERMANY

**COMPANY NAME:** Wirecard AG

**EXCHANGE:** Xetra Stock Exchange

**TICKER:** WDI

**LONGEST RELEVANT PERIOD:** 01.01.2014 – 02.01.2019

**ACTION TYPE:** Opt-In Group Action

**NUMBER OF COMPETING ACTIONS:** 3

**UPCOMING DEADLINE:** N/A

### ALLEGATIONS / STATUS

Misrepresentations by banking and financial firm concerning invented customers and falsified revenues for Asian operations in order to secure a Hong Kong business license. Proposed actions and claims are being investigated by counsel.

## GERMANY

**COMPANY NAME:** Daimler AG

**EXCHANGE:** Frankfurt Stock Exchange

**TICKER:** DMLRY

**LONGEST RELEVANT PERIOD:** 07.10.2012 – 12.31.2018

**ACTION TYPE:** Opt-In Group Action

**NUMBER OF COMPETING ACTIONS:** 4

**UPCOMING DEADLINE:** December 31, 2021 (statute of limitations)

### ALLEGATIONS / STATUS

Failure to disclose diesel emissions fraud and participation in unlawful cartel with other German automobile manufacturers. Litigation ongoing.

## NETHERLANDS

**COMPANY NAME:** Steinhoff International Holdings N.V.

**EXCHANGE:** Frankfurt Stock Exchange

**TICKER:** SNH

**LONGEST RELEVANT PERIOD:** 06.26.2013 – 01.31.2018

**ACTION TYPE:** Opt-In Group Action

**NUMBER OF COMPETING ACTIONS:** 7

**UPCOMING DEADLINE:** Participation Deadline Passed

### ALLEGATIONS / STATUS

Accounting fraud and financial restatements; use of off-balance sheet vehicles to artificially inflate earnings. Several actions have been filed and the company has expressed willingness to enter into discussions with plaintiffs and prospective plaintiffs. Several actions have been filed; litigation is ongoing.

# Ongoing CASE STUDIES

EUROPE



## UNITED KINGDOM

**COMPANY NAME:** Serco Group PLC

**EXCHANGE:** London Stock Exchange

**TICKER:** SRP

**LONGEST RELEVANT PERIOD:** 07.10.2013 – 03.12.2015

**ACTION TYPE:** Opt-In Group Action

**NUMBER OF COMPETING ACTIONS:** 1

**UPCOMING DEADLINE:** Participation Deadline Passed

### ALLEGATIONS / STATUS

Fraud, overcharging, and false accounting involving contract with the British government; government fines and criminal proceedings. Litigation ongoing.

## UNITED KINGDOM

**COMPANY NAME:** G4S plc

**EXCHANGE:** London Stock Exchange

**TICKER:** GFS

**LONGEST RELEVANT PERIOD:** 07.10.2013 – 03.12.2015

**ACTION TYPE:** Opt-In Group Action

**NUMBER OF COMPETING ACTIONS:** 4

**UPCOMING DEADLINE:** December 31, 2021 (statute of limitations)

### ALLEGATIONS / STATUS

Fraud, overcharging, and false accounting involving contract with the British government; government fines and criminal proceedings. Matter ongoing.

## UNITED KINGDOM

**COMPANY NAME:** RSA Insurance Group PLC

**EXCHANGE:** London Stock Exchange

**TICKER:** RSA

**LONGEST RELEVANT PERIOD:** 08.27.2014 – 11.09.2015

**ACTION TYPE:** Opt-In Group Action

**NUMBER OF COMPETING ACTIONS:** 1

**UPCOMING DEADLINE:** Participation Deadline Passed

### ALLEGATIONS / STATUS

Failure to disclose overstated profits and financial irregularities involving Irish business segment; executive resignations. Litigation ongoing.

# Ongoing CASE STUDIES

EUROPE



## DENMARK

**COMPANY NAME:** Danske Bank A/S

**EXCHANGE:** Copenhagen Stock Exchange

**TICKER:** DANSKE

**LONGEST RELEVANT PERIOD:** 02.07.2013 – 11.29.2018

**ACTION TYPE:** Opt-In Group Action

**NUMBER OF COMPETING ACTIONS:** 7

**UPCOMING DEADLINE:** September 2020 (counsel registration deadline)

### ALLEGATIONS / STATUS

Failure to disclose largest-ever European money laundering scheme; scheme persisted for eight years and involved an Estonian branch acquired by Danske. Several complaints have been filed; litigation is ongoing.

# Ongoing CASE STUDIES

OCEANIA



## NEW ZEALAND

**COMPANY NAME:** CBL Corporation Limited

**EXCHANGE:** New Zealand Stock Exchange

**TICKER:** CBL

**LONGEST RELEVANT PERIOD:** New Zealand Stock Exchange

**ACTION TYPE:** Opt-In Group Action

**NUMBER OF COMPETING ACTIONS:** 2

**UPCOMING DEADLINE:** N/A

### ALLEGATIONS / STATUS

Under-reserving for liabilities on insurance contracts resulting in financial statements that reflected inflated profits before and after initial public offering in October 2015; trading was halted, and company entered liquidation in February 2018. Litigation ongoing.

# Ongoing CASE STUDIES

OCEANIA



## AUSTRALIA

**COMPANY NAME:** AMP Limited

**EXCHANGE:** Australian Stock Exchange

**TICKER:** AMLYY

**LONGEST RELEVANT PERIOD:** 05.06.2013 – 04.13.2018

**ACTION TYPE:** Opt-Out Class Action

**NUMBER OF COMPETING ACTIONS:** 5

**UPCOMING DEADLINE:** N/A

### ALLEGATIONS / STATUS

Failure to disclose unethical practice of charging banking customers fees for services that were not performed—a practice that was approved by management despite risks of reputational damage and legal and compliance issues; senior executive resignations. Action leadership decided; litigation ongoing.

## AUSTRALIA

**COMPANY NAME:** BHP Billiton Limited

**EXCHANGE:** Australian Stock Exchange

**TICKER:** BHP

**LONGEST RELEVANT PERIOD:** 08.08.2013 – 11.09.2015

**ACTION TYPE:** Opt-Out Class Action

**NUMBER OF COMPETING ACTIONS:** 3

**UPCOMING DEADLINE:** December 31, 2021 (statute of limitations)

### ALLEGATIONS / STATUS

Misrepresentations about safety of mining operations in Brazil, which resulted in the collapse of a dam holding mining byproducts that killed 19 people in a downstream town with 60 million cubic meters of mud and mine waste, rendered 700 people homeless, and left 400,000 people without potable water. Litigation ongoing.

## AUSTRALIA

**COMPANY NAME:** Dick Smith Holdings Limited

**EXCHANGE:** Australian Stock Exchange

**TICKER:** DSH

**LONGEST RELEVANT PERIOD:** 12.24.2014 – 01.03.2016

**ACTION TYPE:** Opt-Out Class Action

**NUMBER OF COMPETING ACTIONS:** 3

**UPCOMING DEADLINE:** Participation Deadline Passed

### ALLEGATIONS / STATUS

Failure to disclose dramatic increase in aged and obsolete inventory and overstatement of profits requiring a \$60 million write-down; ensuing share price decline prompted bankruptcy filing. Litigation ongoing; trial commenced but delayed due to COVID-19 pandemic.

# Ongoing CASE STUDIES

OCEANIA



## AUSTRALIA

**COMPANY NAME:** Spotless Group Holdings Limited

**EXCHANGE:** Australian Stock Exchange

**TICKER:** SPO

**LONGEST RELEVANT PERIOD:** 08.25.2015 – 12.01.2015

**ACTION TYPE:** Opt-Out Class Action

**NUMBER OF COMPETING ACTIONS:** 2

**UPCOMING DEADLINE:** Participation Deadline Passed

### ALLEGATIONS / STATUS

Failure to disclose change to accounting policy that had the effect of boosting earnings before announcing a decline in profits. Litigation ongoing; mediation ongoing.

## AUSTRALIA

**COMPANY NAME:** Quintis Limited

**EXCHANGE:** Australian Stock Exchange

**TICKER:** SPO

**LONGEST RELEVANT PERIOD:** 07.01.2015 – 05.10.2017

**ACTION TYPE:** Opt-In and Opt-Out Class Action

**NUMBER OF COMPETING ACTIONS:** 2

**UPCOMING DEADLINE:** Participation Deadline Passed

### ALLEGATIONS / STATUS

Misrepresentations regarding key supply agreements and performance forecasts. Litigation ongoing; partially settled.

## AUSTRALIA

**COMPANY NAME:** Foreign Exchange Cartel

**EXCHANGE:** N/A – Foreign Exchange Transactions arranged in Australia

**TICKER:** N/A

**LONGEST RELEVANT PERIOD:** 01.01.2008 – 10.15.2013

**ACTION TYPE:** Opt-Out Class Action

**NUMBER OF COMPETING ACTIONS:** 1

**UPCOMING DEADLINE:** N/A

### ALLEGATIONS / STATUS

Illegal cartel conduct that manipulated foreign-exchange benchmark rates; numerous regulatory and private enforcement actions. Litigation ongoing.

# Ongoing CASE STUDIES

ASIA



## JAPAN

**COMPANY NAME:** Kobe Steel Ltd

**EXCHANGE:** Tokyo Stock Exchange

**TICKER:** 5406

**LONGEST RELEVANT PERIOD:** 05.31.2013 – 03.09.2018

**ACTION TYPE:** Opt-In Group Action

**NUMBER OF COMPETING ACTIONS:** 1

**UPCOMING DEADLINE:** Participation Deadline Passed

### ALLEGATIONS / STATUS

Misrepresentations regarding financial health by falsifying test data for aluminum and copper parts in order to meet quality standards; corporate resignations and regulatory investigations and indictments. Litigation ongoing.

## JAPAN

**COMPANY NAME:** Mitsubishi Motors Corporation

**EXCHANGE:** Tokyo Stock Exchange

**TICKER:** 7211

**LONGEST RELEVANT PERIOD:** 01.01.2011 – 09.22.2017

**ACTION TYPE:** Opt-In Group Action

**NUMBER OF COMPETING ACTIONS:** 1

**UPCOMING DEADLINE:** Participation Deadline Passed

### ALLEGATIONS / STATUS

Misrepresentations regarding fuel-consumption and mileage data for Mitsubishi and Nissan vehicles. Litigation ongoing.

## JAPAN

**COMPANY NAME:** Nissan Motor Corporation

**EXCHANGE:** Tokyo Stock Exchange

**TICKER:** 7201

**LONGEST RELEVANT PERIOD:** 06.30.2011 – 05.14.2019

**ACTION TYPE:** Opt-In Group Action

**NUMBER OF COMPETING ACTIONS:** 1

**UPCOMING DEADLINE:** Participation Deadline Passed

### ALLEGATIONS / STATUS

Misrepresentations regarding executive income and annual financial reports, including a failure to disclose corporate governance failures. Proposed action and claims are being investigated by counsel.

# Ongoing CASE STUDIES

SOUTH AMERICA



## BRAZIL

**COMPANY NAME:** JBS S.A.

**EXCHANGE:** São Paulo Stock Exchange

**TICKER:** JBSS3

**LONGEST RELEVANT PERIOD:** 05.24.2013 – 05.31.2017

**ACTION TYPE:** Opt-In Arbitration

**NUMBER OF COMPETING ACTIONS:** 1

**UPCOMING DEADLINE:** Participation Deadline Passed

## ALLEGATIONS / STATUS

Misrepresentation regarding source of growth, which in fact derived from bribery and illegal kickbacks to politicians. Arbitration proceedings are ongoing.

## BRAZIL

**COMPANY NAME:** BRF S.A.

**EXCHANGE:** São Paulo Stock Exchange

**TICKER:** BRFS3

**LONGEST RELEVANT PERIOD:** 04.04.2013 – 11.29.2019

**ACTION TYPE:** Opt-In Arbitration

**NUMBER OF COMPETING ACTIONS:** 1

**UPCOMING DEADLINE:** Participation Deadline Passed

## ALLEGATIONS / STATUS

Misrepresentations concerning massive corruption, fraud, and bribery scandal involving food sanitation inspectors that, among other things, circumvented inspections of company meatpacking plants. Arbitration proceedings ongoing.

## BRAZIL

**COMPANY NAME:** Vale S.A.

**EXCHANGE:** São Paulo Stock Exchange

**TICKER:** VALE

**LONGEST RELEVANT PERIOD:** 04.29.2014 – 10.31.2019

**ACTION TYPE:** Opt-In Arbitration

**NUMBER OF COMPETING ACTIONS:** 1

**UPCOMING DEADLINE:** N/A

## ALLEGATIONS / STATUS

Misrepresentations concerning safety of mining operations leading up to January 2019 collapse of chemical waste dam in Brazil, which killed at least 248 people and caused massive environmental damage; top executives arrested. Proposed arbitration to be initiated.

LABATON SUCHAROW'S LAWYERS ARE AVAILABLE TO ADDRESS ANY QUESTIONS YOU MAY HAVE REGARDING NON-U.S. SECURITIES LITIGATION. PLEASE CONTACT THE LABATON SUCHAROW LAWYER WITH WHOM YOU USUALLY WORK OR A MEMBER OF OUR NON-U.S. LITIGATION TEAM.



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# THANK YOU

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