

Securities Class Action Filings

2013 Mid-Year Assessment



RESEARCH SAMPLE

- The Stanford Law School Securities Class Action Clearinghouse in cooperation with Cornerstone Research has identified 3,641 federal securities class action filings between January 1, 1996, and June 30, 2013 (<http://securities.stanford.edu>).
- The sample used in this report is referred to as the classic filings sample and excludes IPO allocation, analyst, and mutual fund filings (313, 68, and 25 filings, respectively).¹
- Multiple filings related to the same allegations against the same defendant(s) are consolidated in the database through a unique record indexed to the first identified complaint.

1. IPO allocation, analyst, and mutual fund filings are class actions primarily filed in the early and mid-2000s that alleged improper allocations of stock to institutional customers in initial public offerings, research analyst conflicts of interest, and improper trading in mutual funds, respectively.

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OVERVIEW

Number and Type of Filings

Federal securities class action filing activity in the first half of 2013 remained at depressed levels compared to historical experience. There were 74 filings in the first six months of 2013, down 16 percent from the first half of 2012, but 16 percent higher than the second half of 2012 (Figure 1). The number of filings in the first six months of 2013 was well below the historical average of 95 per six-month period. If the total for the second half of 2013 is the same as the first half, there will be 148 filings in 2013, which would represent the second-lowest annual total since 1997.

**FIGURE 1: CLASS ACTION FILINGS SUMMARY
SIX-MONTH PERIODS**

	Semiannual Average (1997 H1–2012 H2)	2011 H2	2012 H1	2012 H2	2013 H1
Class Action Filings	95	94	88	64	74
Disclosure Dollar Loss (\$ Billions)	\$63	\$61	\$61	\$35	\$25
Maximum Dollar Loss (\$ Billions)	\$326	\$255	\$253	\$152	\$113

The following trends are noteworthy for the first half of 2013:

- The increase in filings compared to the second half of 2012 is primarily the result of an increase in filings against technology and energy companies. There were 10 filings each against technology and energy companies in the first half of 2013, compared with four and three such filings, respectively, in the second half of 2012.
- Federal filings against companies listed on the Over-the-Counter Bulletin Board (OTCBB) and Pink Sheets have increased over the last 18 months. During this period at least 8 percent of all filings were against such companies, which are typically smaller firms with lower market capitalizations. Historically, less than 4 percent of federal filings were against these companies (Figure 13). In contrast, filings against companies in the S&P 500—those with larger market capitalizations—have declined in recent years, culminating in the first half of 2013 with the least amount of filing activity we have observed in the 13 years for which we have collected data (Figures 7 and 8).
- Federal filings associated with merger and acquisition (M&A) transactions remained at low levels. Seven cases were filed in the first half of 2013, compared with eight and five in the first and second halves of 2012, respectively. In comparison, 43 such cases were filed in 2011. These actions are now being pursued primarily in state courts after the unusual jump in federal M&A filings in 2010 and 2011.²
- The rush of filings against Chinese issuers listed on U.S. exchanges through reverse mergers (Chinese reverse mergers, or CRMs) seen in late 2010 and throughout 2011 has essentially ended. Two new CRM cases have been filed in the first half of 2013—a substantial decline from the peak of 31 filings in 2011.

² Cornerstone Research, *Shareholder Litigation Involving Mergers and Acquisitions, February 2013 Update*, Robert M. Daines and Olga Koumrian.

OVERVIEW *continued*

Disclosure Dollar Loss and Maximum Dollar Loss

Consistent with the low levels of filing activity and an increase in the percentage of filings against smaller firms, the loss of market capitalization associated with filings also decreased in the first half of 2013 and remained far below the semiannual averages observed between 1997 and 2012.

- The total Disclosure Dollar Loss (DDL) of \$25 billion in the first six months of 2013 was significantly lower than the levels observed in the first and second halves of 2012. It was less than half of the semiannual average of \$63 billion from 1997 to 2012.
- The total Maximum Dollar Loss (MDL) of \$113 billion in the first half of 2013 was significantly lower than the MDL in the first and second halves of 2012. The total in the first half of 2013 was 65 percent below \$326 billion, the average MDL in the six-month periods between 1997 and 2012.

New for the 2013 Mid-Year Assessment

- **Dismissal trends.** We have revisited an analysis initially conducted in 2010 in which we examined class action outcomes by filing year. At that time we noted that increasing percentages of filings were being dismissed in cohort years 2003 through 2005. In our updated analysis, filing dismissal rates continued to increase for the 2008, 2009, and 2010 cohorts (Figure 14). More recent filings do not yet allow us to determine if dismissal rates have continued to increase since the 2010 cohort.
- **An analysis of the progression and outcome of class actions based on whether or not the lead plaintiff is an institutional investor.** We observe that the filings with an institutional investor as the lead or co-lead plaintiff were less likely to be dismissed and more likely to reach a ruling on summary judgment than those that did not have an institutional investor as the lead or co-lead plaintiff (Figures 15 and 16).

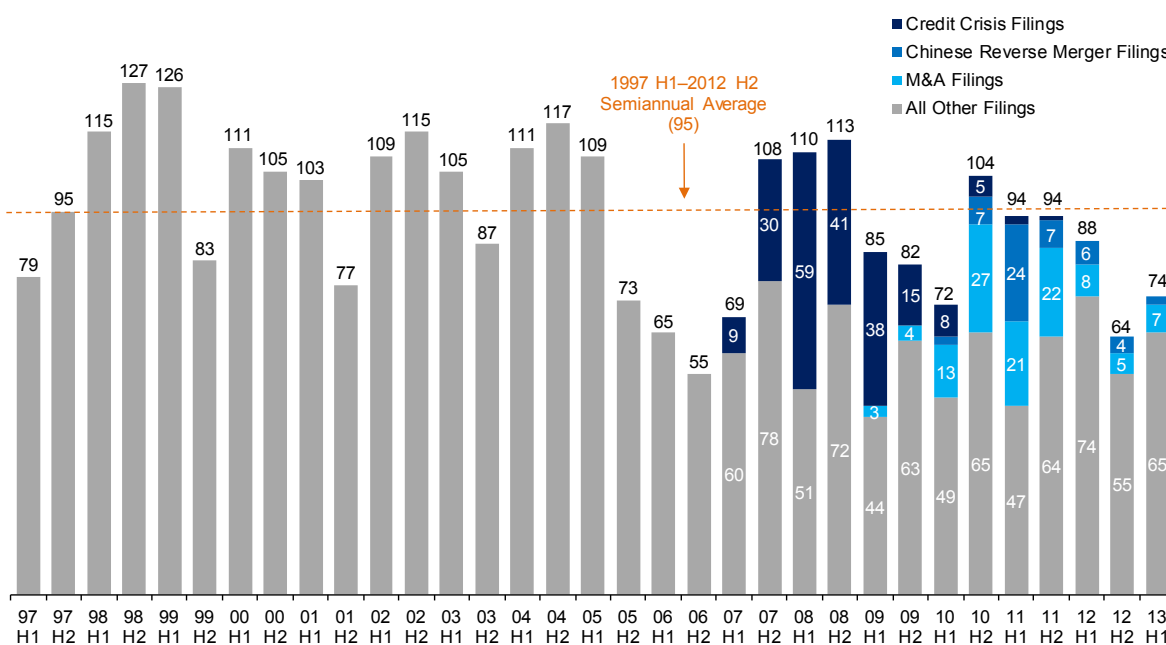
NUMBER OF FILINGS

The Class Action Filings (CAF) Index™ reports 74 filings in the first half of 2013, a 16 percent decrease from the same period in 2012 and a 16 percent increase from the second half of 2012 (Figure 2).

The increase in filings compared to the second half of 2012 is primarily the result of an increase in filings against technology and energy companies. There were 10 filings each against technology and energy companies in the first half of 2013, compared with four and three such filings in the second half of 2012. Since 1997, there has been a semiannual average of 13 filings against technology companies and three against energy companies. Thus, the increase in technology filings relative to 2012 is a reversion to the historical average. The increase in energy-related filings, primarily against oil and gas companies, is similar in magnitude to an uptick in energy filings observed in late 2011 and early 2012, before a slowdown in the second half of 2012. The uptick in these filings again in the first half of 2013 is likely a continuation of the elevated level of filings observed starting in the second half of 2011.

As noted in our 2012 reports, the number of federal M&A³ and CRM filings has decreased markedly relative to the high levels in 2010 and 2011. There were seven M&A filings in the first half of 2013, consistent with the last two semiannual periods, but 56 percent less than the average of 16 per six-month period over the past three years. Similarly, there were only two CRM filings in the first half of 2013, compared with an average of eight per six-month period during the last three years.

**FIGURE 2: CLASS ACTION FILINGS (CAF) INDEX™
SEMIANNUAL NUMBER OF CLASS ACTION FILINGS
1997 H1–2013 H1**



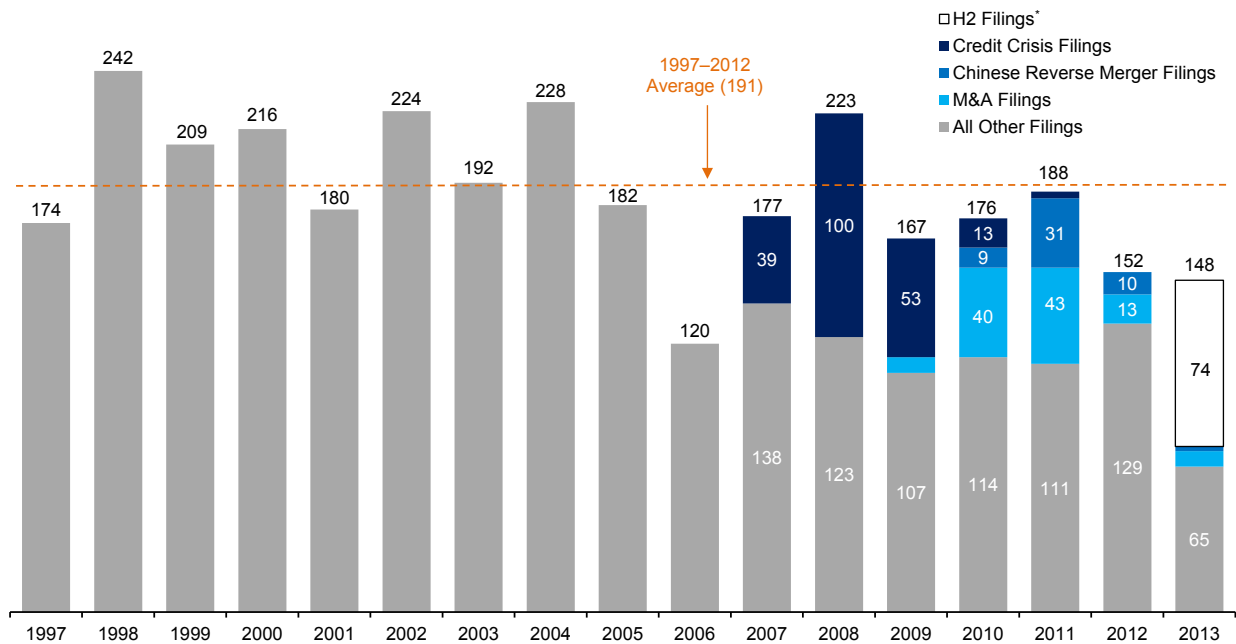
Note: There were two cases in 2011 that involved both M&A and Chinese Reverse Merger filings. These filings were classified as M&A filings to avoid double counting.

³ Filings were categorized as M&A if they included claims related to mergers and acquisitions and no Rule 10b-5, Section 11, or Section 12(2) allegations.

NUMBER OF FILINGS *continued*

If the number of filings for the second half of 2013 is the same as the first half, there will be 148 filings in 2013. This would represent the second-lowest annual total since 1997, well below the historical average of 191 filings per year and slightly lower than the 152 filings in 2012 (Figure 3).

FIGURE 3: CLASS ACTION FILINGS (CAF) INDEX™
ANNUAL NUMBER OF CLASS ACTION FILINGS
1997–2013



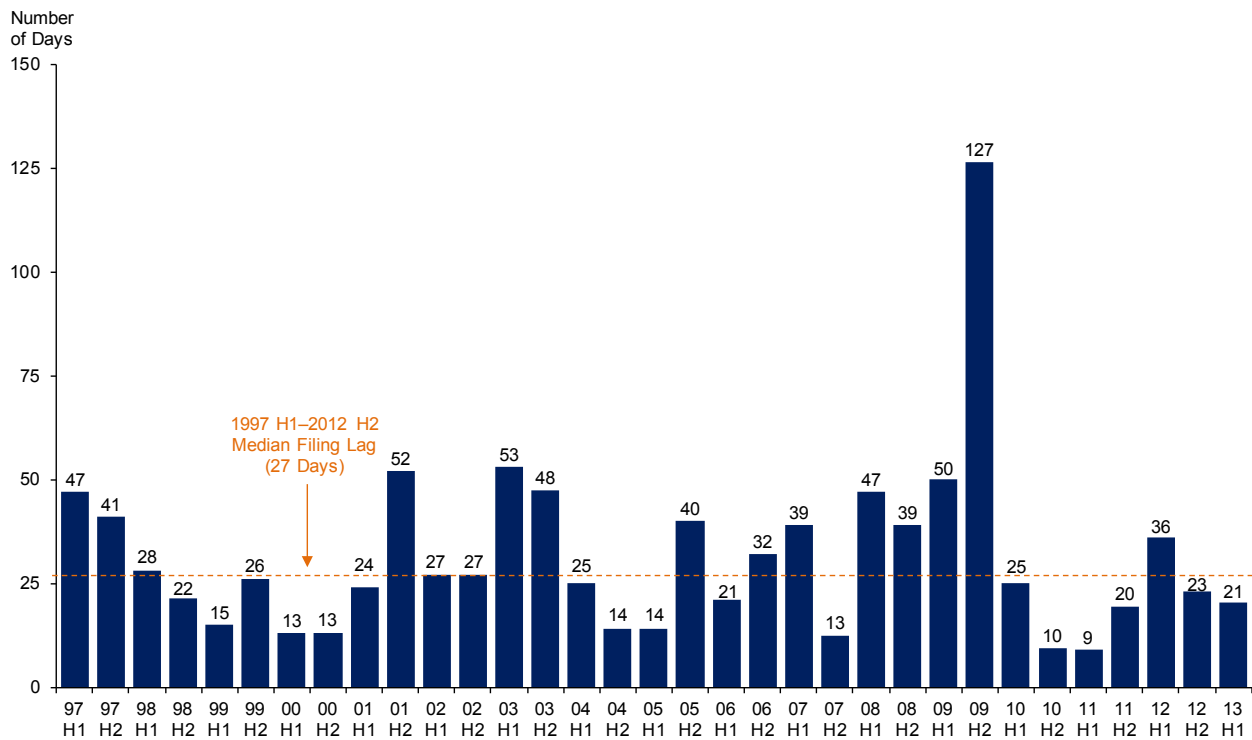
* If the number of filings in the second half of 2013 matches the first half.

Note: There were two cases in 2011 that involved both M&A and Chinese Reverse Merger filings. These filings were classified as M&A filings to avoid double counting.

FILING LAG

The median time lag between the end of the alleged class period and the filing date of the lawsuit remained relatively consistent, falling slightly to 21 days in the first half of 2013 from 23 days in the second half of 2012 (Figure 4). The median lag was lower than the historical median time lag of 27 days, meaning that the typical class action was filed more quickly in the first half of 2013.

FIGURE 4: SEMIANNUAL MEDIAN TIME LAG BETWEEN CLASS-END DATE AND FILING DATE 1997 H1–2013 H1

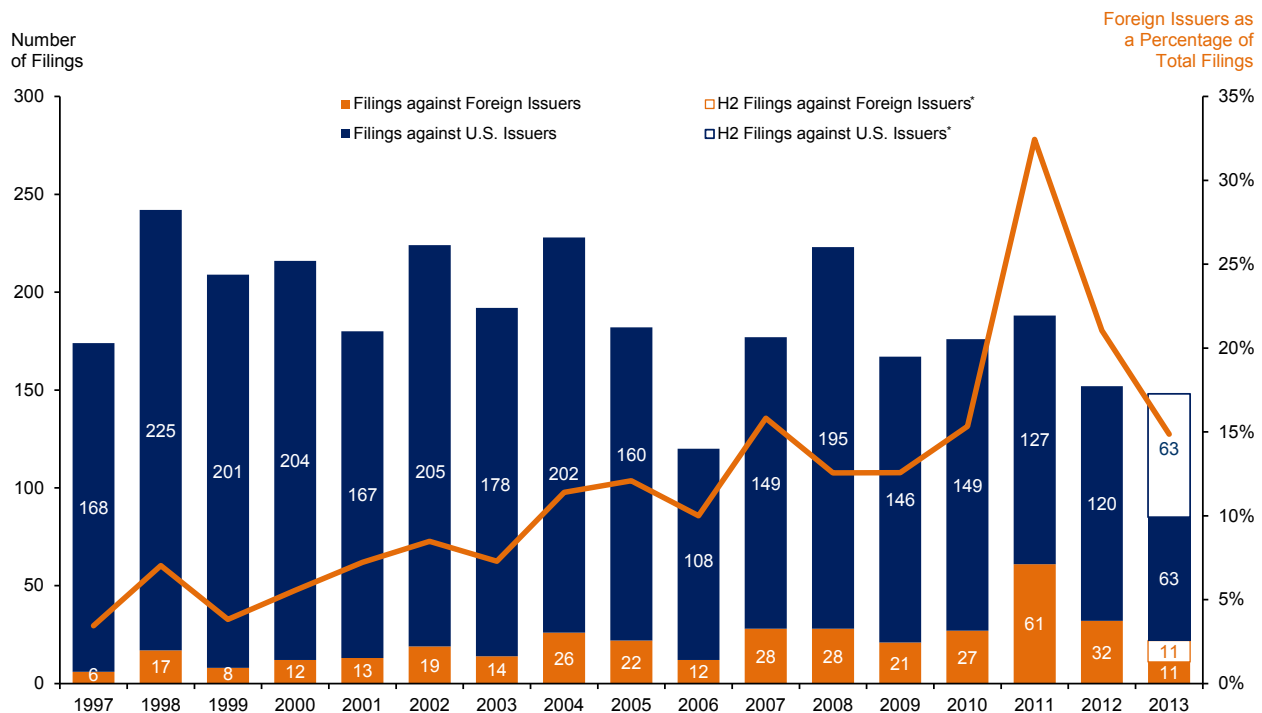


FOREIGN FILINGS

The Class Action Filings-Foreign (CAF-F) Index™ tracks the number of filings against companies headquartered outside the United States relative to total filings (Figure 5). In the first half of 2013, the number of filings against foreign issuers was 50 percent less than the number from the same period in 2012. The percentage of filings against foreign companies fell to 14.9 percent—less than the percentage of foreign filings in 2011 and 2012 but similar to the proportion observed in the few years before 2010, when CRM filings rose in prominence.

The overall decline of foreign filings in 2013 can largely be explained by the reduction in CRM filings. CRM filings peaked in 2011, at 31, and have significantly declined since then. In the first half of 2013, there were only two CRM filings.

FIGURE 5: CLASS ACTION FILINGS-FOREIGN (CAF-F) INDEX™
ANNUAL NUMBER OF CLASS ACTION FILINGS
BY LOCATION OF HEADQUARTERS
1997–2013



* If the number of filings in the second half of 2013 matches the first half.

FOREIGN FILINGS *continued*

Foreign filing activity slowed in the second half of 2012 and continued at a similar pace in the first half of 2013. Foreign filings were 14.9 percent of total filings in the first half of 2013, still slightly above the historical annual average of 11.3 percent.

The decline in foreign filings was also exacerbated by the fall in filings against other foreign issuers from Asia and Europe. During the first half of 2013 there were two filings against non-CRM Chinese companies and only one against a European company. By comparison, in the first half of 2012 there were five and four filings, respectively (Figure 6).

**FIGURE 6: FOREIGN FILINGS BY LOCATION OF HEADQUARTERS
1997 H1–2013 H1**

Region	Number of Filings					Percentage of Total Filings				
	Semiannual Average 1997 H1–2012 H2	2011 H2	2012 H1	2012 H2	2013 H1	Semiannual Average 1997 H1–2012 H2	2011 H2	2012 H1	2012 H2	2013 H1
Europe	3	5	4	2	1	3.5%	5.3%	4.5%	3.1%	1.4%
Asia	3	16	11	7	4	3.6%	17.0%	12.5%	10.9%	5.4%
Chinese Reverse Merger Filings	N/A	7	6	4	2	N/A	7.4%	6.8%	6.3%	2.7%
Other Chinese Filings	1	8	5	3	2	1.5%	8.5%	5.7%	4.7%	2.7%
Other Asian Filings	0	1	0	0	0	0.4%	1.1%	0.0%	0.0%	0.0%
Canada	2	3	5	1	3	2.3%	3.2%	5.7%	1.6%	4.1%
Other	2	2	2	0	3	1.9%	2.1%	2.3%	0.0%	4.1%
Total Foreign Filings	11	26	22	10	11	11.3%	27.7%	25.0%	15.6%	14.9%

Note:

1. Figures may not add due to rounding.
2. Chinese Reverse Merger Filings and Other Chinese Filings include filings for companies headquartered in Hong Kong.
3. The semiannual average for Chinese Reverse Merger Filings is not displayed as it is a phenomenon that only began four years ago.

HEAT MAPS

The Heat Maps of S&P 500 Securities Litigation™ facilitate the analysis of securities class action activity by sector. The analysis focuses on companies in the S&P 500, which represents 500 large, publicly traded companies in all major industry sectors. Starting with the composition of the S&P 500 at the beginning of each year, the Heat Maps examine two factors for each sector. The first is the percentage of companies subject to new securities class actions in federal court. The second is the market capitalization of companies subject to new securities class actions in relation to the market capitalization of the sector as a whole.

Of the 74 filings in the first half of 2013, seven involved companies listed in the S&P 500. This is slightly less than the rate of filings against S&P 500 companies observed in 2012. The only sectors in which the pace of filings in the first half of 2013 exceeded 2012 were the Consumer Discretionary, Health Care, and Telecommunication Services sectors. In terms of the number of filings, during the equivalent period of 2012, there were two such filings against S&P 500 companies in the Consumer Discretionary sector, one against companies in the Health Care sector, and no filings against S&P 500 companies in the Telecommunication Services sector. In the first half of 2013, there were three, two, and one filing, respectively.

**FIGURE 7: HEAT MAPS OF S&P 500 SECURITIES LITIGATION™
PERCENTAGE OF COMPANIES SUBJECT TO NEW FILINGS
2000–2013**

	Average 2000–2012	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013 H1
Consumer Discretionary	5.1%	3.3%	2.4%	10.2%	4.6%	3.4%	10.3%	4.4%	5.7%	4.5%	3.8%	5.1%	3.8%	4.9%	3.6%
Consumer Staples	3.6%	7.3%	8.3%	2.9%	2.9%	2.7%	8.6%	2.8%	0.0%	2.6%	4.9%	0.0%	2.4%	2.4%	0.0%
Energy	2.2%	0.0%	0.0%	8.0%	0.0%	4.2%	0.0%	0.0%	0.0%	0.0%	2.6%	7.7%	0.0%	4.5%	0.0%
Financials	10.3%	4.2%	1.4%	16.7%	8.6%	19.3%	7.3%	2.4%	10.3%	31.2%	13.1%	10.3%	1.2%	3.7%	0.0%
Health Care	8.9%	2.6%	7.1%	15.2%	10.4%	10.6%	10.7%	6.9%	12.7%	13.7%	3.7%	15.4%	2.0%	3.8%	3.8%
Industrials	3.2%	2.8%	0.0%	6.0%	3.0%	8.5%	1.8%	0.0%	5.8%	3.6%	6.9%	0.0%	1.7%	1.6%	0.0%
Information Technology	6.4%	9.7%	18.2%	10.3%	5.2%	3.6%	7.5%	9.0%	2.6%	2.9%	0.0%	3.9%	6.6%	4.3%	1.4%
Materials	1.1%	4.1%	0.0%	0.0%	2.9%	0.0%	3.1%	0.0%	0.0%	0.0%	0.0%	3.2%	0.0%	0.0%	0.0%
Telecommunication Services	7.5%	23.1%	16.7%	15.4%	8.3%	0.0%	0.0%	0.0%	0.0%	0.0%	11.1%	0.0%	11.1%	0.0%	14.3%
Utilities	6.7%	5.0%	7.9%	40.5%	2.8%	5.7%	3.0%	0.0%	3.1%	3.2%	0.0%	0.0%	8.8%	3.1%	0.0%
All S&P 500 Companies	5.9%	5.0%	5.6%	12.0%	5.2%	7.2%	6.6%	3.6%	5.4%	9.2%	4.8%	5.4%	3.2%	3.4%	1.4%

Legend 0% 0%–5% 5%–15% 15%–25% 25%+

Note:

1. The chart is based on the composition of the S&P 500 as of the last trading day of the previous year.
2. Sectors are based on the Global Industry Classification Standard.
3. The percentage of companies subject to new filings equals the number of companies subject to new securities class action filings in federal courts within each sector divided by the total number of companies in that sector.

HEAT MAPS *continued*

Companies in the S&P 500 subject to new filings in the first half of 2013 constituted only 1 percent of the overall S&P 500 market capitalization, compared with 3.7 percent in the first half and 1.2 percent in the second half of 2012. All sectors experienced lower levels of filing activity, with the exception of Consumer Discretionary, Health Care, and Telecommunication Services companies. A filing against one of the larger companies in the Consumer Discretionary sector meant that at mid-year the market capitalization of the Consumer Discretionary sector subject to securities class action filings was higher than in all of 2012. The activity in the Telecommunication Services sector reflected a single filing against one of the seven S&P 500 companies in the sector.

Overall, the intensity of class action activity against S&P 500 companies was much lower than historical averages, both in terms of the number of companies named as defendants and the percentage of market capitalization represented by the defendants.

**FIGURE 8: HEAT MAPS OF S&P 500 SECURITIES LITIGATION™
PERCENTAGE OF MARKET CAPITALIZATION SUBJECT TO NEW FILINGS
2000–2013**

	Average 2000–2012	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013 H1
Consumer Discretionary	6.6%	6.5%	1.3%	24.7%	2.0%	7.9%	5.7%	8.9%	4.4%	7.2%	1.9%	4.9%	4.6%	1.6%	2.6%
Consumer Staples	5.5%	34.5%	6.3%	0.3%	2.3%	0.1%	11.4%	0.8%	0.0%	2.6%	3.9%	0.0%	0.8%	14.0%	0.0%
Energy	2.7%	0.0%	0.0%	1.7%	0.0%	44.9%	0.0%	0.0%	0.0%	0.0%	0.9%	3.3%	0.0%	1.2%	0.0%
Financials	22.1%	3.3%	0.8%	29.2%	19.9%	46.1%	22.2%	8.2%	18.1%	55.0%	38.3%	31.1%	6.9%	11.0%	0.0%
Health Care	15.9%	11.0%	5.4%	35.2%	16.3%	24.1%	10.1%	18.1%	22.5%	20.0%	1.7%	33.7%	0.7%	3.8%	3.8%
Industrials	7.0%	3.9%	0.0%	13.3%	4.6%	8.8%	5.6%	0.0%	2.2%	26.4%	23.2%	0.0%	2.1%	1.2%	0.0%
Information Technology	8.8%	8.5%	37.6%	5.7%	1.0%	1.5%	12.4%	9.9%	4.2%	1.7%	0.0%	6.8%	11.1%	2.5%	0.2%
Materials	2.2%	8.6%	0.0%	0.0%	1.4%	0.0%	5.1%	0.0%	0.0%	0.0%	0.0%	12.5%	0.0%	0.0%	0.0%
Telecommunication Services	12.0%	39.5%	13.3%	19.9%	4.0%	0.0%	0.0%	0.0%	0.0%	0.0%	1.7%	0.0%	28.4%	0.0%	6.3%
Utilities	8.3%	5.6%	17.4%	51.0%	4.3%	4.8%	5.6%	0.0%	5.5%	4.0%	0.0%	0.0%	5.6%	6.8%	0.0%
All S&P 500 Companies	10.6%	11.1%	10.9%	18.8%	8.0%	17.7%	10.7%	6.7%	8.2%	16.2%	8.6%	11.2%	5.1%	4.9%	1.0%

Legend 0% 0%–5% 5%–15% 15%–25% 25%+

Note:

1. The chart is based on the market capitalizations of the S&P 500 companies as of the last trading day of the previous year. If the market capitalization on the last trading day is not available, the average fourth-quarter market capitalization is used.
2. Sectors are based on the Global Industry Classification Standard.
3. The percentage of market capitalization subject to new filings equals the total market capitalization of companies subject to new securities class action filings in federal courts in each sector divided by the total market capitalization of all companies in that sector.

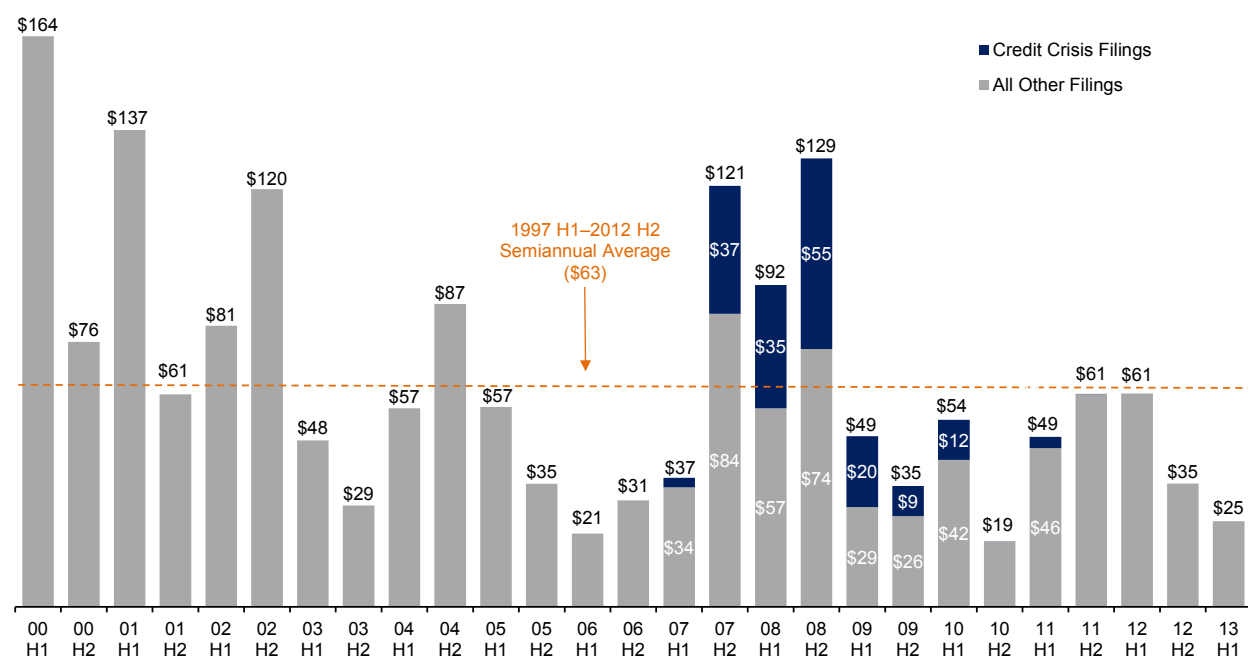
MARKET CAPITALIZATION LOSSES

To measure changes in the size of class action filings, we track market capitalization losses for defendant firms during and at the end of class periods.⁴ Declines in market capitalization may be driven by market, industry, and/or firm-specific factors. To the extent that the observed losses reflect factors unrelated to the allegations in class action complaints, indices based on class period losses would not represent potential defendant exposure in class actions. This is especially relevant in the post-*Dura* securities litigation environment.⁵ This report tracks market capitalization losses at the *end* of each class period using DDL, and market capitalization losses *during* each class period using MDL.

DDL is the dollar-value change in the defendant firm’s market capitalization between the trading day immediately preceding the end of the class period and the trading day immediately following the end of the class period. MDL is the dollar-value change in the defendant firm’s market capitalization from the trading day with the highest market capitalization during the class period to the trading day immediately following the end of the class period. DDL and MDL should not be considered indicators of liability or measures of potential damages. Instead, they estimate the impact of all information revealed during or at the end of the class period, including information unrelated to the litigation.

Both DDL and MDL were lower in the first half of 2013 than the second half of 2012 (Figures 9 and 10). Both measures also remained well below the historical averages.

FIGURE 9: DISCLOSURE DOLLAR LOSS (DDL) INDEX™
2000 H1–2013 H1
Dollars in Billions



⁴ Market capitalization measures are calculated for publicly traded common equity securities, closed-ended mutual funds, and exchange-traded funds where data are available.

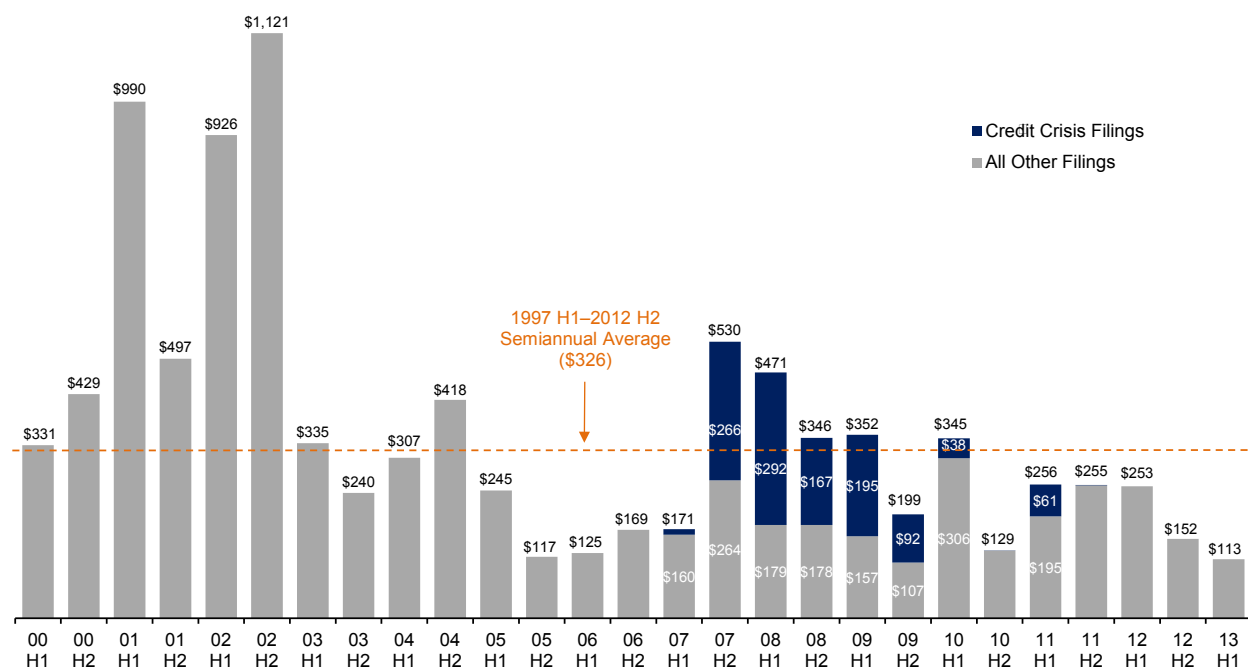
⁵ In April 2005, the Supreme Court ruled that plaintiffs in a securities class action are required to plead a causal connection between alleged wrongdoing and subsequent shareholder losses.

MARKET CAPITALIZATION LOSSES *continued*

The Disclosure Dollar Loss (DDL) Index™ decreased by 29 percent from the second half of 2012 to the first half of 2013. The DDL Index was also well below the historical six-month average of \$63 billion.

The Maximum Dollar Loss (MDL) Index™ for the first half of 2013 decreased by 26 percent from the second half of 2012. Similar to the DDL Index, the MDL Index was well below the historical six-month average of \$326 billion and was at its lowest level since the first half of 1998.

FIGURE 10: MAXIMUM DOLLAR LOSS (MDL) INDEX™
2000 H1–2013 H1
Dollars in Billions



MARKET CAPITALIZATION LOSSES *continued*

The average DDL of \$417 million in the first half of 2013 was 36 percent lower than the average for the second half of 2012 and 48 percent lower than the average for the 16 years ending December 2012 (Figure 11). However, the median DDL in the first half of 2013 was higher than both the median DDL in the second half of 2012 and the 16-year average median DDL.

Filings in the first half of 2013 had a lower average and lower median MDL than filings in the second half of 2012 or filings over the previous 16 years. The average MDL of \$1.91 billion was less than half of the 16-year average MDL. The median MDL of \$531 million for the first half of 2013 was 8 percent lower than the median MDL of \$577 million in the second half of 2012.

FIGURE 11: FILINGS COMPARISON

	Semiannual Average (1997 H1–2012 H2)	2011 H2	2012 H1	2012 H2	2013 H1
Class Action Filings	95	94	88	64	74
DDL Total (\$ Billions)	\$63	\$61	\$61	\$35	\$25
MDL Total (\$ Billions)	\$326	\$255	\$253	\$152	\$113
Disclosure Dollar Loss					
Average (\$ Millions)	\$800	\$900	\$840	\$656	\$417
Median (\$ Millions)	\$120	\$78	\$150	\$143	\$163
Median DDL % Decline	23.1%	22.7%	22.1%	25.6%	17.8%
Maximum Dollar Loss					
Average (\$ Millions)	\$4,184	\$3,751	\$3,459	\$2,764	\$1,914
Median (\$ Millions)	\$664	\$599	\$659	\$577	\$531

Note: Average and median numbers are calculated only for filings with MDL and DDL data.

MEGA FILINGS

Historically, a small number of mega filings have accounted for a large proportion of total market capitalization losses associated with class actions. Mega DDL filings are defined as filings with a DDL of at least \$5 billion. Mega MDL filings are defined as filings with an MDL of at least \$10 billion.

There were one mega DDL filing and two mega MDL filings in the first half of 2013 (Figure 12). The number of mega DDL filings decreased from the two observed in the second half of 2012, while the number of mega MDL filings remained constant. As was the case in the second half of 2012, mega filings have been infrequent so far in 2013 compared to historical averages.

Disclosure Dollar Loss

The mega DDL filing accounted for \$6 billion, or 24 percent, of total DDL in the first half of 2013. This share of total DDL was down from 39 percent in the previous six-month period and down from 47 percent in the first half of 2012. Mega DDL filings represented 56 percent of the total DDL of all filings between 1997 and 2012.

Maximum Dollar Loss

There were two mega MDL filings in the first half of 2013. These filings represented 42 percent of the total MDL, the lowest level since the first half of 1999. Mega MDL filings represented 73 percent of the total MDL of all filings between 1997 and 2012.

FIGURE 12: MEGA FILINGS

	Disclosure Dollar Loss (DDL) Mega Filings ¹			Maximum Dollar Loss (MDL) Mega Filings ²		
	Mega Filings	DDL (\$ Billions)	Percentage of Total DDL	Mega Filings	MDL (\$ Billions)	Percentage of Total MDL
1997 H1–2012 H2 (Average)	6	\$70	56%	14	\$478	73%
2011 H2	2	\$40	65%	4	\$180	71%
2012 H1	2	\$29	47%	8	\$152	60%
2012 H2	2	\$14	39%	2	\$72	48%
2013 H1	1	\$6	24%	2	\$48	42%

Note:

1. DDL mega filings have a disclosure dollar loss of \$5 billion or greater.

2. MDL mega filings have a maximum dollar loss of \$10 billion or greater.

EXCHANGE

Over the past 18 months, the percentage of filings against companies that were listed during the class period or shortly thereafter on the OTCBB or Pink Sheets has risen (Figure 13). Historically, more than 90 percent of all filings are against companies listed on NASDAQ, NYSE, or NYSE MKT.⁶ Since companies on the OTCBB or Pink Sheets tend to have lower market capitalizations, their DDLs and MDLs also tend to be smaller. Hence an increase in these filings would cause the average DDL and MDL to decline. If filings against companies listed on the OTCBB or Pink Sheets were excluded from the analysis, the average DDL and average MDL for the first half of 2013 would be \$447 million and \$2.04 billion, respectively. These levels are both 7 percent higher than the averages for all filings in the first half of 2013.

This increased litigation activity against companies listed on the OTCBB or Pink Sheets is consistent with the observed lower average DDL and MDL of recent filings and may indicate a trend toward plaintiffs substituting larger class actions, which have become less common, with filings that historically would have appeared relatively less attractive.

FIGURE 13: SHARE OF CLASS ACTION FILINGS BY EXCHANGE

	Semiannual Average (1997 H1–2012 H2)	2011 H2	2012 H1	2012 H2	2013 H1
NASDAQ	51%	56%	42%	36%	53%
NYSE/NYSE MKT	41%	31%	44%	53%	34%
Privately Held	4%	1%	2%	3%	4%
OTCBB	3%	1%	8%	8%	8%
Pink Sheets	1%	7%	2%	0%	1%
Other	1%	3%	1%	0%	0%

Note: Figures may not add to 100 percent due to rounding.

⁶ NYSE MKT was previously known as AMEX. Following NYSE Euronext's acquisition of AMEX, its name was changed to NYSE MKT LLC effective May 14, 2012.

NEW DEVELOPMENTS

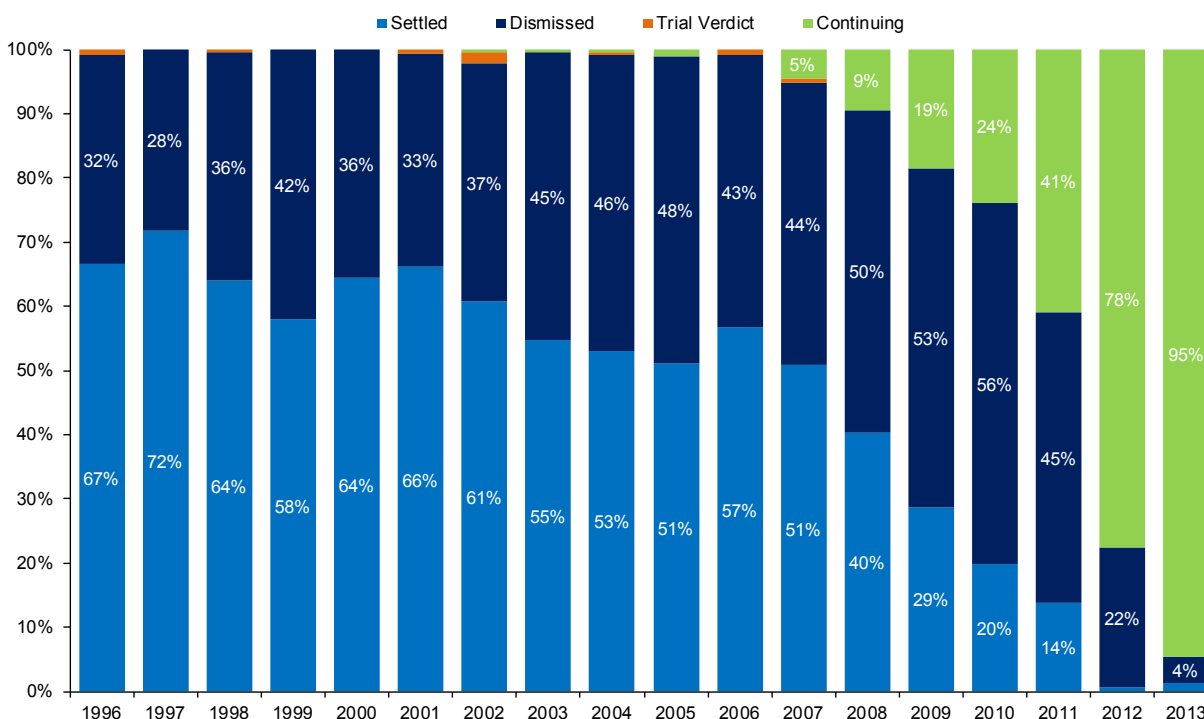
Dismissal Trends

As part of our recent analyses of case outcomes, we have again examined whether case outcomes have changed over time. This is an extension of analyses we initially conducted in 2010 that showed dismissals were increasingly common for filings in cohort years 2003 through 2005. As each cohort ages, a larger percentage of filings are resolved, with a settlement, dismissal, or trial verdict (Figure 14).

In our current analysis, for filings in cohort years 2008 through 2010, a larger percentage of cases were dismissed than in prior years. For filings in the 2008 cohort, 50 percent have already been dismissed. For the 2009 and 2010 filing cohorts, dismissals increased to 53 and 56 percent, respectively. These percentages are likely to increase in the future as ongoing cases are resolved. For filings in more recent cohort years, an insufficient number of cases have been resolved to determine if these dismissal trends will continue.

Part of the increase in dismissal rates observed for the 2009 and 2010 filing cohorts is explained by the increase in M&A cases that began in 2009 and became more prominent in 2010. M&A filings have significantly higher dismissal rates than non-M&A filings. For example, in the 2010 filing cohort, 80 percent of M&A filings were dismissed, compared with 49 percent of non-M&A filings. However, even if M&A cases are excluded from the analysis, dismissal rates are hovering near 50 percent for filings in cohort years 2008, 2009, and 2010.

FIGURE 14: STATUS OF SECURITIES CLASS ACTION FILINGS BY YEAR FILED 1996–2013



Note: Figures may not add to 100 percent due to rounding.

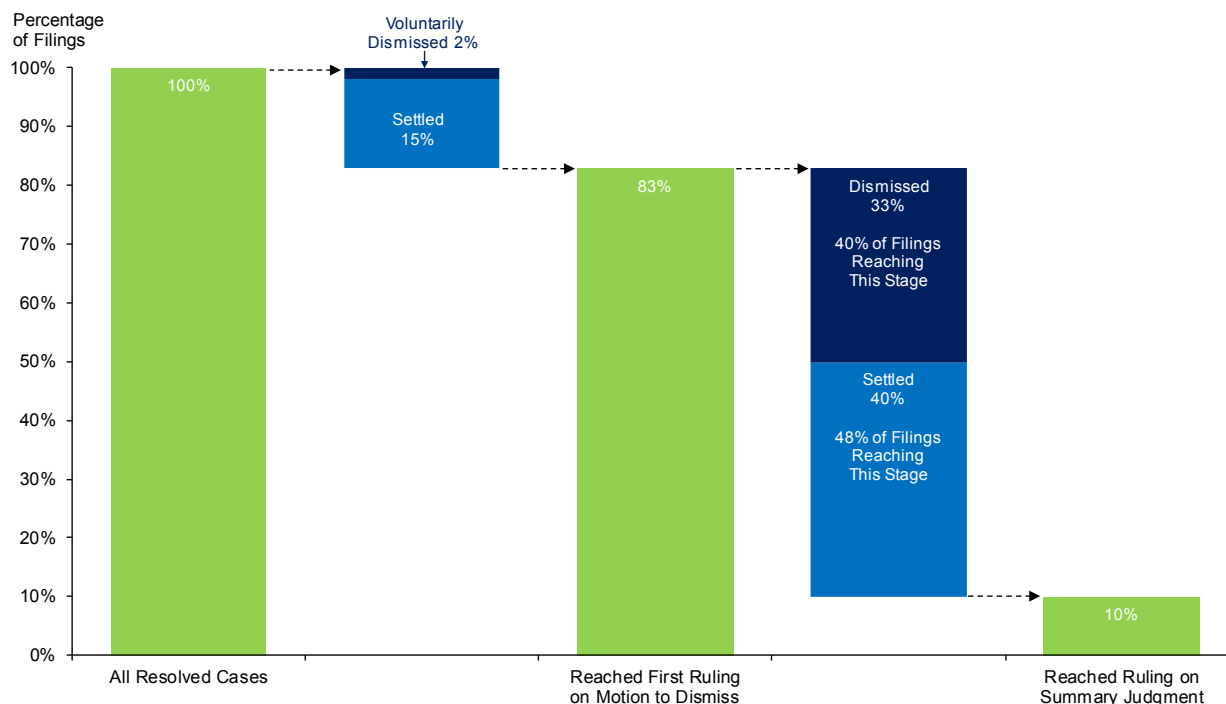
NEW DEVELOPMENTS *continued*

Effect of Lead Plaintiff on Progression and Resolution of Filings

Filings with an institutional investor as the lead or co-lead plaintiff may be perceived as having more merit and thus could be less likely to be dismissed.⁷ To test this hypothesis, we compared the case progression and outcomes of filings with an institutional investor as the lead or co-lead plaintiff to cases without. We observed that filings with an institutional investor as the lead or co-lead plaintiff were indeed less likely to be dismissed, with 35 percent of cases with an institutional investor as the lead or co-lead plaintiff being dismissed compared with 42 percent without an institutional investor.

The sample included 2,487 filings from 1996 to 2010 with sufficient information to track case progression and resolution. Of these, 767 had an institutional investor as either the lead or co-lead plaintiff and 1,720 did not. For filings with an institutional investor as the lead or co-lead plaintiff, 17 percent were resolved prior to reaching a first ruling on motion to dismiss, with 2 percent voluntarily dismissed and 15 percent settling. Conditional on reaching a first ruling on motion to dismiss, 40 percent of all filings reaching this stage were dismissed and 48 percent settled. Only 10 percent of filings with an institutional investor as the lead or co-lead plaintiff reached a ruling on summary judgment (Figure 15).

FIGURE 15: PROGRESSION AND RESOLUTION OF FILINGS WITH INSTITUTIONAL INVESTOR AS LEAD OR CO-LEAD PLAINTIFF 1996–2010



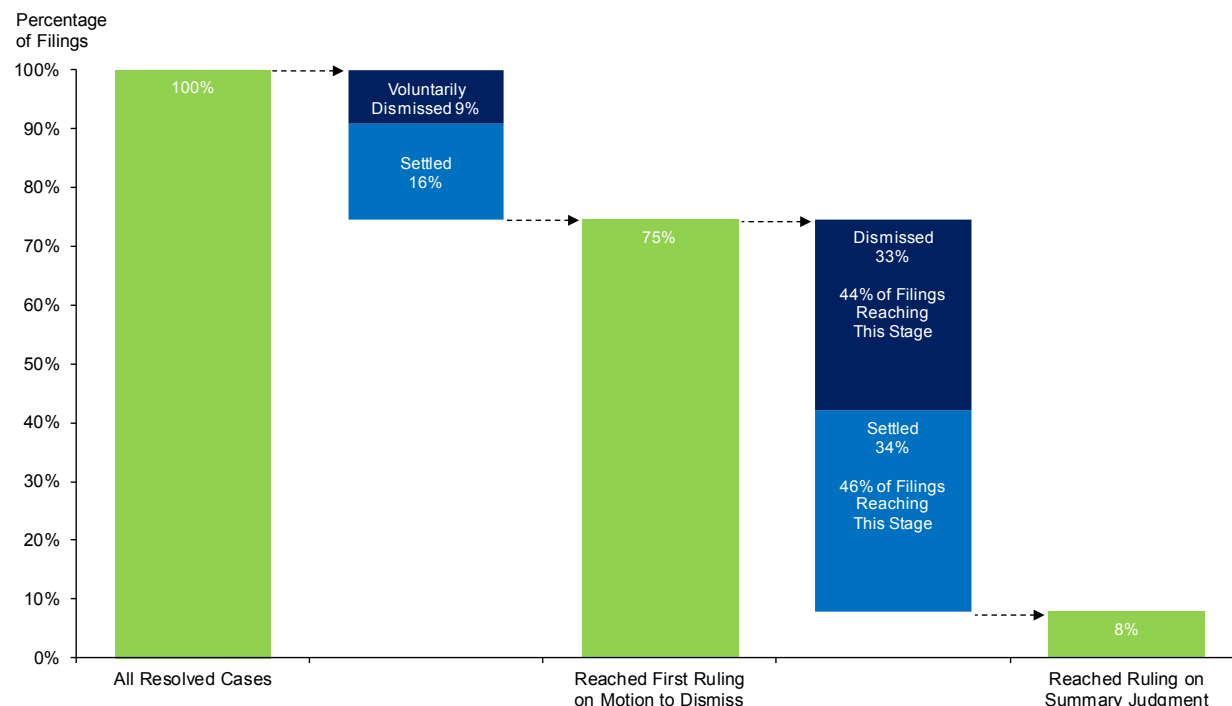
Note: Figures may not add to 100 percent due to rounding.

⁷ Lead plaintiffs are identified based on the court order appointing lead plaintiffs. If that is unavailable, lead plaintiffs are then identified from other relevant documents in the following order: (1) the court docket, (2) the latest consolidated complaint, and (3) the first identified complaint. If there are multiple lead plaintiffs, a filing is classified as having an institutional investor as a lead or co-lead plaintiff if at least one of the lead plaintiffs is an institutional investor.

NEW DEVELOPMENTS *continued*

For filings without an institutional investor as the lead or co-lead plaintiff in the period 1996 to 2010, 25 percent were resolved prior to reaching a first ruling on motion to dismiss, with 9 percent voluntarily dismissed and 16 percent settling. Conditional on reaching a first ruling on motion to dismiss, 44 percent of all filings reaching this stage were dismissed and 46 percent settled prior to a ruling on summary judgment. Only 8 percent of filings without an institutional investor as the lead or co-lead plaintiff reached a ruling on summary judgment (Figure 16).

FIGURE 16: PROGRESSION AND RESOLUTION OF FILINGS WITHOUT INSTITUTIONAL INVESTOR AS LEAD OR CO-LEAD PLAINTIFF 1996–2010



Note: Figures may not add to 100 percent due to rounding.

In summary, there was a statistically significant difference, at the 99 percent confidence level, in the cumulative dismissal rate for filings with an institutional investor as the lead or co-lead plaintiff (35 percent), in comparison to the cumulative dismissal rate for filings without an institutional investor as the lead or co-lead plaintiff (42 percent). At the 90 percent confidence level, there was also a statistically significant difference in the likelihood that filings with an institutional investor as the lead or co-lead plaintiff would reach a ruling on summary judgment as compared to filings without.

The authors request that you reference Cornerstone Research and the Stanford Law School Securities Class Action Clearinghouse in any reprint of the information or figures included in this study.

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