

**NEWS RELEASE**

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**FOR IMMEDIATE RELEASE**

**2009 Securities Class Actions Filings Decline Significantly, According to Mid-Year Report by  
Stanford Law School and Cornerstone Research**

**Filings against Foreign Firms Continue to Climb and Reach New Highs**

**Financial Industry Continues as Focus of Unprecedented Litigation Activity**

**Boston and Stanford, July 20, 2009**—Federal securities class action activity declined in the first half of 2009, with a particularly significant decline in the second quarter, according to [Securities Class Action Filings—2009: Mid-Year Assessment](#), an annual report prepared by the Stanford Law School Securities Class Action Clearinghouse in cooperation with Cornerstone Research.

A total of 87 federal securities class actions were filed in the first half of 2009, a 22.3 percent decline from the 112 filings in both halves of 2008. Only 35 filings were observed in the second quarter, the lowest quarterly total since the first quarter of 2007. Financial services firms are defendants in 66.7 percent of these filings, an increase over the 50.0 percent share of all filings in 2008.

This report introduces a new metric, the Class Action Filing-Foreign Index (CAF-F Index™), that measures the number of securities class action filings in U.S. federal courts against defendant corporations headquartered outside the United States. Federal securities class action lawsuits against issuers with non-U.S. headquarters (“foreign firms”) have been rising for more than a decade and reached 31 filings (13.8 percent of total filings) in 2008, with an average of 18 foreign firms (9.4 percent of total filings) sued in each year since 1997. Thus far in 2009, 18 lawsuits have been filed against foreign firms, representing 20.7 percent of the total. Filings against foreign firms are concentrated in the financial sector, as 41.9 percent of the filings in 2008 and 77.7 percent of the filings in the first half of 2009 were against financial firms.

Disclosure Dollar Losses (DDL) totaled only \$48 billion, well below the semiannual average of \$69 billion.<sup>1</sup> Two-thirds of these losses are generated by two mega-DDL cases with DDLs in excess of \$5 billion each. This considerable decline in DDL, and its heavy concentration in two cases, likely reflects lower stock market valuations: prices are declining from a lower base, meaning that investors’ losses at the time of disclosure are compressed. Both average and median DDL were also lower in the first half of 2009, but were still higher than the semiannual average for the 12 years ending December 2008.

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Maximum Dollar Losses (MDL), however, totaled \$429 billion, a 22.2 percent increase from the second half of 2008 and 20.5 percent above the semiannual average. The median MDL was also 80.3 percent higher than the semiannual average. There were seven mega MDL filings—lawsuits with an MDL of \$10 billion or more—that accounted for \$376 billion of MDL in the first half of 2009 and represent 87.6 percent of MDL in the first half of 2009, the largest share in the prior 12 years. The decline in DDL and the simultaneous increase in MDL can be explained by the fact that the MDL metric measures declines over the entire length of the alleged class period, which can often include higher stock prices because the class period may have begun before the recession. In contrast, the DDL metric considers only the stock price decline contemporaneous with the corrective disclosure, which today typically occurs at lower valuations.

### **Commentary**

*Professor Joseph Grundfest, Director of the Stanford Law School Securities Class Action Clearinghouse in cooperation with Cornerstone Research:*

“Securities litigation activity continues to be driven by claims against financial services firms, but all the large firms in the industry have already been sued. Plaintiffs are therefore filing claims against the smaller number of smaller financial services firms yet to be sued. Those facts, combined with the general decline in stock market valuations, help explain the decline in the number of companies sued and in the dollar amounts at risk in recent litigation, as measured by the DDL.”

“A disproportionate number of recent claims against foreign firms target the financial services sector. The uptick in litigation activity against foreign firms can therefore be viewed as a side-effect of the larger trend to sue financial services firms, wherever they are headquartered. The key question for the plaintiffs is whether they can get jurisdiction in the U.S. courts.”

*Dr. John Gould, Vice President of Cornerstone Research:*

“The continued rise in securities class action filings against foreign firms, as presented in the report’s new metric, underscores the interconnected nature of the credit crisis and the global reach of securities class action litigation.”

“A possible explanation for the decline in filings thus far in 2009 may be the reduced stock market volatility. The market was much more volatile in the second half of 2008, when filings were rising, compared to the first half of this year, when filings dropped off. Moving forward, greater market stability may signal a reduced number of securities class action filings.”

### **Key Findings**

- If the filing rate for the first half of the year continues, then 174 securities class actions will be filed this year, a 22.3 percent decrease from 2008 and an 11.7 percent decrease from the annual average for the 12 year period ending December 2008.
- About half of the filings so far in 2009 were driven by the credit crisis, with 42 filings in the first half of the year containing allegations related to the credit crisis.
- The dramatic decline in the number of class action filings is contemporaneous with a 43.7 percent decline from the fourth quarter of 2008 to the second quarter of 2009 in stock market volatility as measured by the Chicago Board Options Exchange Volatility Index (VIX).
- The Litigation Heat Maps™, a recent addition to the report, show that 2.8 percent of companies that represent 7.5 percent of market capitalization in the S&P 500 index were defendants in filings in the first half of 2009. Financial firms were hit hard as 12.8 percent of companies in the S&P 500 classified by *Bloomberg* as financial were named as defendants, accounting for 41.2 percent of the market capitalization of that sector.

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- The number of filings against unique issuers on major U.S. exchanges decreased in the first half of 2009 on an absolute level and as a percentage of total filings. This decline was driven by a large number of filings related to non-exchange-traded securities and private companies in the first half of 2009.
- There were 15 filings related to Ponzi schemes thus far in 2009. The majority of these lawsuits, 11 filings, were on behalf of investors in Madoff funds, with most suits targeting so-called feeder funds, hedge funds, and other financial intermediaries that invested their clients' money with Madoff.

Professor Grundfest and Dr. Gould are available to speak to the media about the report titled *Securities Class Action Filings: 2009 Mid-Year Assessment*. The full text of the report is available at the Stanford Law School Securities Class Action Clearinghouse (<http://securities.stanford.edu>) and Cornerstone Research (<http://securities.cornerstone.com>) websites.

The Securities Class Action Clearinghouse is an authoritative source of data and analysis on the financial and economic characteristics of federal securities fraud class action litigation.

Cornerstone Research provides financial and economic analysis in litigation and regulatory proceedings, with a focus on litigation related to securities, antitrust and competition, intellectual property, financial institutions, energy, accounting, and pharmaceuticals. Cornerstone Research cosponsors the Stanford Law School Securities Class Action Clearinghouse. For additional information, please visit: <http://www.cornerstone.com>.

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<sup>1</sup> Disclosure Dollar Loss and Maximum Dollar Loss are defined in the "Market Capitalization Losses" section of the report.

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