



*Quarterly D&O Claim Trends: End of Year Wrap-Up* 

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### **TODAY'S MODERATOR**



#### Jim Blinn

**Executive Vice President and Principal** 

Advisen Ltd.



## **New Case Classification System**

Old Category	Old Type	New Category	New Type
Securities	Books & Records Violations	Corporate Capital Risks	Books & Records Violations
Securities	Breach of Fiduciary Duties: Class Action	Shareholder Risks	Merger Objection
Securities	Breach of Fiduciary Duties: Securities	Shareholder Risks	Breach of Fiduciary Duties: Securities
Securities	Collective Action	Shareholder Risks	Collective Action
Securities	Creditor Derivative	Shareholder Risks	Creditor Derivative
Securities	Derivative Action	Corporate Capital Risks	Derivative Action
Securities	Derivative Shareholder Action	Shareholder Risks	Derivative Shareholder Action
Securities	Proxies and Solicitation Violations	Corporate Capital Risks	Proxies and Solicitation Violations
Securities	Securities Class Action	Shareholder Risks	Securities Class Action
Securities	Securities Fraud	Shareholder Risks	Securities Individual Actions
Securities	Securities Fraud	Corporate Capital Risks	Capital Regulatory Actions



# **Key Findings**

- Total filings and new enforcement actions were down 20 percent in 2013
  - From 1,677 in 2012 to 1,344 in 2013
- Although down, the aggregate still exceeds the totals from prior to 2009 and the 10 year historical average of 1,285 events
- Securities class actions were the only major case type to experience an increase in new fillings
  - 178 filings in 2012 to 180 in 2013
- Percentagewise, shareholder derivative suits experienced the largest drop in new fillings falling 30 percent between 2012 & 2013
  - Breach of fiduciary duties dropped 29 percent
  - Securities individual actions 26 percent
  - Capital regulatory actions 24 percent, &
  - Merger objection suits 11 percent



# **Key Findings**

- SCA suits ticked upward for a second consecutive year as a percentage of total events
- The number of Merger objection cases continued to decline for the second consecutive year
- Capital regulatory actions were the leading type of new securities filing in in 2013
  - Capital regulatory actions include a majority of cases that were formerly classified as securities fraud
- Financial services sector remained leading target for new filings
- The total number of settlements were down, but average settlement value was up
- SCA settlements remained most significant source of large losses with average settlement of \$82 million for the year, up from \$33 million in 2012

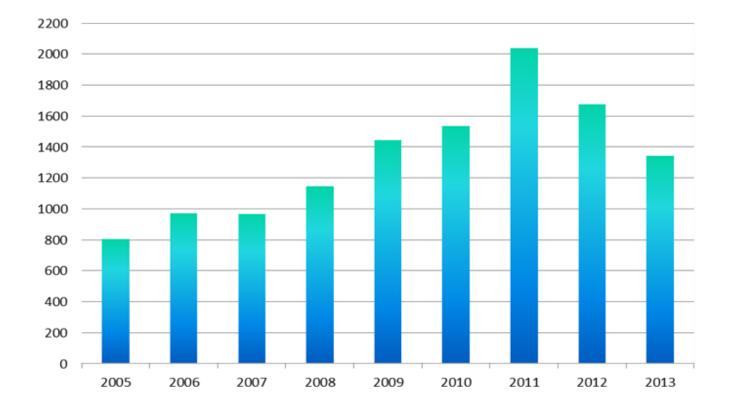


## Looking Ahead: 2014

- If and how will the Supreme Court case Halliburton Co. v Erica P. John Fund, Inc. change the "fraud on the market" doctrine
- Will Robocop and whistle blower awards result in increased SEC investigations and enforcement actions
- Will strong capital markets drive more M&A's and therefore more merger objection suits
- Will higher expectations increase motivation for fraud
- Will a strong stock market drive IPO's and in turn more disclosure suits
- Will improving economic conditions result in fewer bankruptcies and related suits
- Will cyber events drive more SCA and shareholder derivative suits



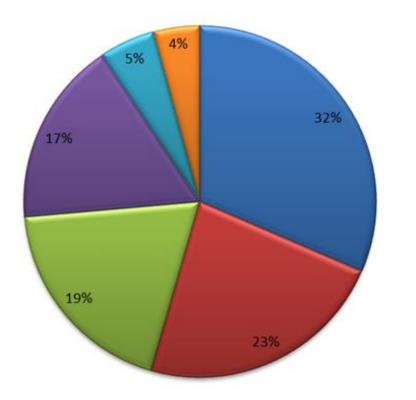
## **Filings and Enforcement Actions**



Source: Advisen MSCAd™



# Suits by Type

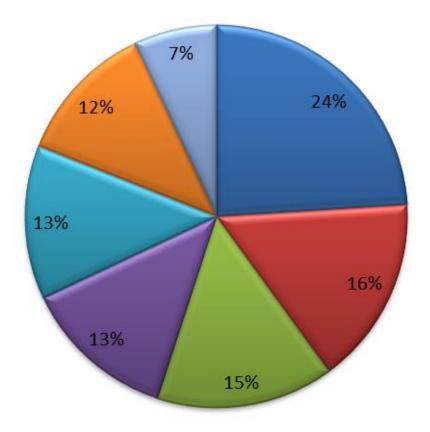


- Capital Regulatory Actions
- Merger Objection
- Securities Class Action
- Derivative
- Securities Individual Actions
- l Other

Source: Advisen MSCAd™



## **Suits by Sector**

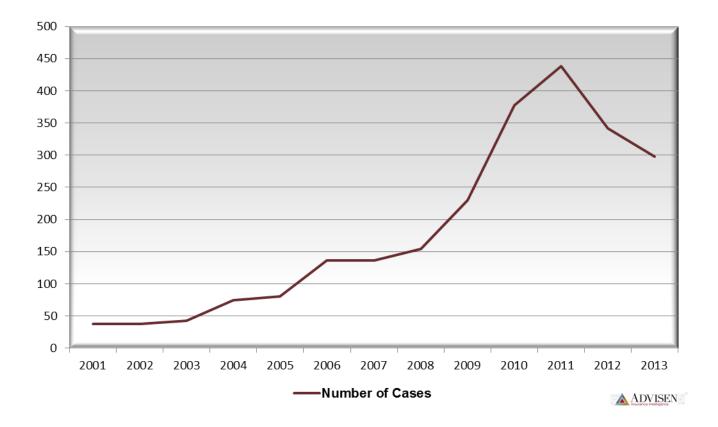




Source: Advisen MSCAd™



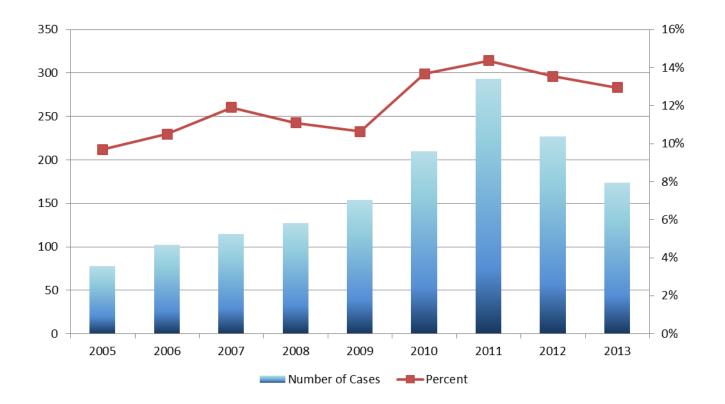
## **Merger Objection Cases Annualized**



Source: Advisen MSCAd™



### **Non-US Companies**



Source: Advisen MSCAd™



### **TODAY'S PANELISTS**



#### **Kevin LaCroix**

Executive Vice President, RT ProExec, a division of RT Specialty



#### Jack Flug Managing Director Marsh FINPRO



#### **Dennis Kearns**

Senior Vice President, Executive Underwriter and Technical Advisor QBE

### MANY THANKS TO OUR PANELISTS



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Thursday, February 13, 2014 at 11am EST <a href="https://www1.gotomeeting.com/register/620638929">https://www1.gotomeeting.com/register/620638929</a>



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http://events.Signup4.com/AdvisenCasualtyInsights2014



### Tuesday, September 23 in New York City

http://events.SignUp4.com/AdvisenManagementLiability2014



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