

# US Securities Class Actions

## International US-Listed Companies | Q1 2019



Class action filings against companies headquartered outside the US continued at elevated levels in the first quarter of 2019.

### Filings up significantly in the first quarter

Overall, there were 18 new securities class actions brought against international companies in US federal courts in the first quarter, significantly more than the 10-year average of 10 cases typically filed in Q1. If this elevated level were to continue, it would result in 72 class actions this year. As you can see from our annual statistics on page 4, this would represent a significant increase – more than double the number in 2014 and 2015.

As in previous quarters, the most filings were against companies in the technology and healthcare industries. Geographically, companies based in Europe and Asia made up the majority of the first quarter filings. Companies that are either directly listed, or those with their ADRs listed on the New York Stock Exchange comprised half of the Q1 filings. Three companies whose securities are traded only over the counter in the US were subject to a filing this quarter.<sup>1</sup> A full breakdown of the filings based on headquarters, industry and listing is on page 3.

### Focus on Merger Objection Suits – Different Trends for US and International Companies

International companies listed in the US face a different securities class action environment compared with their US domestic counterparts. One example of this different environment is merger objection suits (also known as M&A suits).

Commentary about the recent increase in securities class actions has highlighted the move of merger objection suits into federal courts from Delaware state courts. This resulted from a decision in the Delaware Court of Chancery where the court refused to approve a disclosure-only settlement.<sup>2</sup> In a typical merger objection case, the plaintiffs allege that the disclosure documents filed relating to a pending takeover are false and misleading as they omit information shareholders need to evaluate the deal, such as additional financial projections or details of potential conflicts of interest. Historically, these cases have been viewed as part of the cost of taking over a public company. Cases typically resulted in the target company agreeing to produce some additional disclosure. Usually the only money changing hands is a fee to the plaintiffs' lawyers as part of the overall settlement or agreement to dismiss the lawsuit.

The type of case matters because M&A suits can be less costly than other types of securities class actions. This is partly because of the higher dismissal rates and partly because plaintiffs typically seek additional disclosure, rather than damages. According to Cornerstone Research, for the period from 2009 to 2017, 86% of M&A cases were dismissed while only 46% of non-M&A suits were dismissed over the same period.<sup>3</sup>

Merger objection cases make up a smaller percentage of class action filings for international companies than for their US domestic counterparts. For example, in 2016, the year of the Delaware decision, M&A cases made up 31% of all class action filings, but only 5% of the actions against foreign filers were M&A suits. In 2017, when M&A cases made up 48% of the overall filings, only 10% of the SCAs against foreign filers were M&A suits. And in 2018, the overall percentage of M&A cases was 45%, whereas 22% of the securities actions against international companies were M&A actions. Over time, this difference is likely to mean international companies have a lower **overall** dismissal rate than their domestic counterparts. When reviewing information regarding dismissal rates and overall costs of US securities class actions, it is important to remember that the higher dismissal rates domestic US companies are currently experiencing due to this move of M&A cases into federal courts, does not currently apply to international companies in the same way.

<sup>1</sup> For more about class actions against companies who only trade over the counter in the US, see our insights paper: [UK Public Companies and US Securities Class Actions – a Hidden Risk?](#)

<sup>2</sup> See [In re Trulia Inc. Stockholder Litigation](#), C.A. No. 1002-CB at 39 (Del. Ch. Jan. 22, 2016).

<sup>3</sup> Cornerstone Research - [Securities Class Actions – 2018 Year In Review](#) – Page 15

This is just one example of how US domestic trends do not necessarily hold true for companies headquartered outside of the US. International companies need to be familiar with the US securities environment for international companies rather than rely solely on the experience of US companies.

The good news is that AIG's claims team has significant experience assisting international clients in the defence and settlement of securities class actions, providing helpful insight and support when directors and officers need it most.

**We hope you find these quarterly updates valuable. To receive these updates or other information on D&O claims trends from AIG, [sign up here](#).**

## Class Actions Q1 2019 <sup>4</sup>

### Number of Class Action Filings in q1 2019

Total Number of  
Class Actions (Inc. US)

**98**

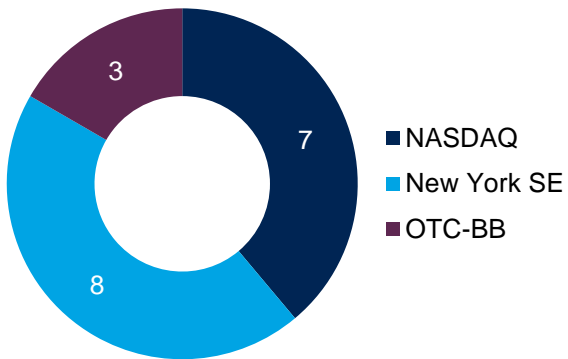
Class Actions Against  
Foreign Companies

**18**

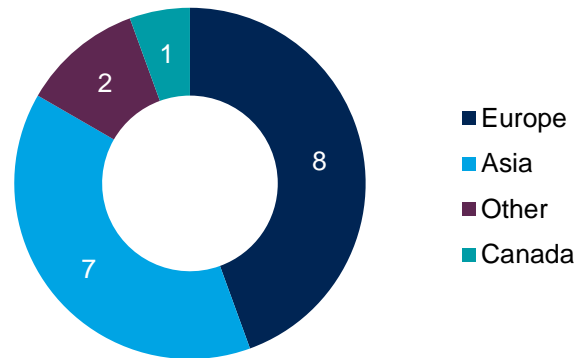
Foreign Issuers  
as % of Total

**18.37**

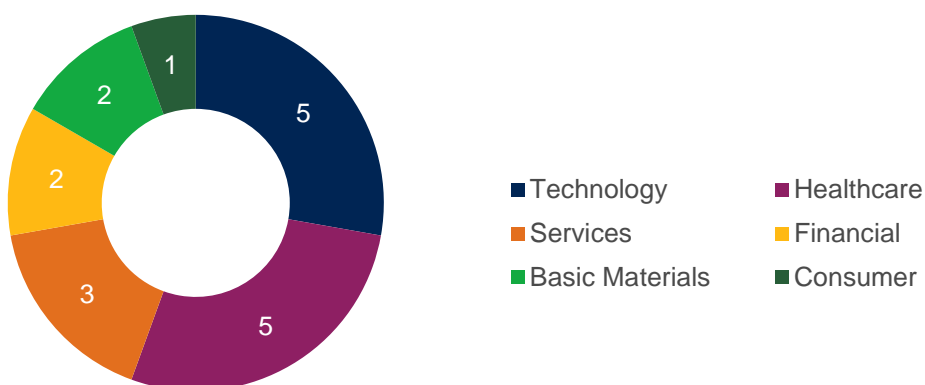
### Foreign Filings by Exchange Location Q1 2019



### Foreign Filings by Headquarter Location Q1 2019



### Foreign Filings by Sector Q1 2019



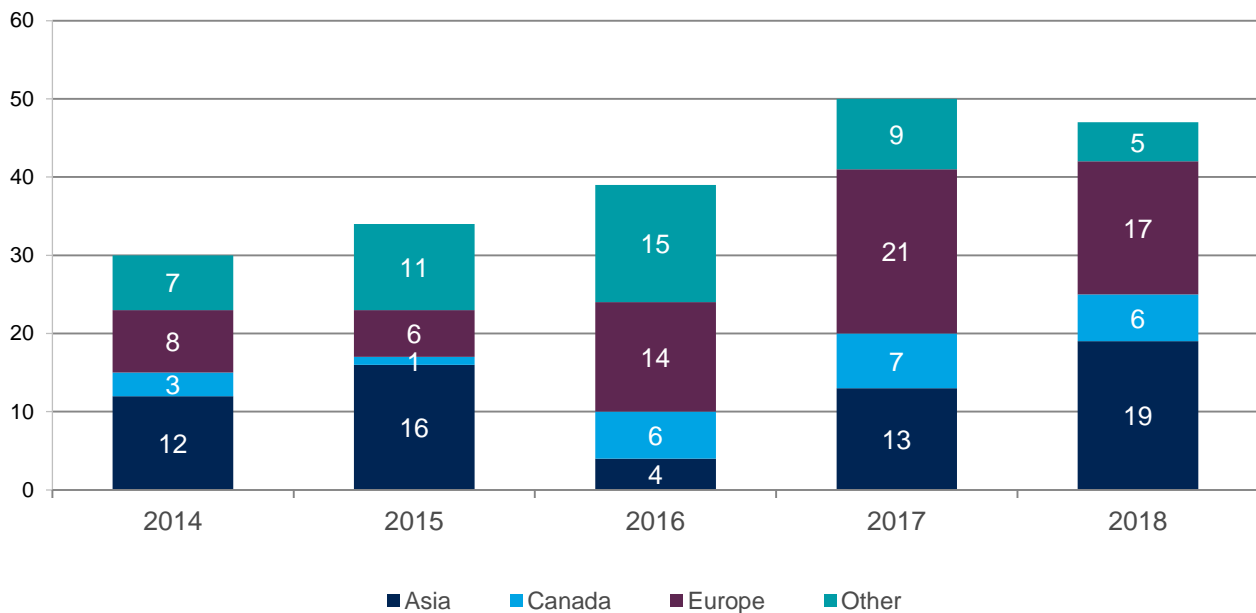
<sup>4</sup> Compiled using data from Stanford School of Law – [Securities Class Action Clearinghouse](#), a collaboration with Cornerstone Research and used with permission. All filings.

## Annual Statistics 2014 – 2018 <sup>5</sup>

### Number of Class Actions Filings – Core Filings

	Total Number of Class Actions	Class Actions Against US Issuers	Class Actions Against Foreign Issuers	Foreign Issuers as % of Total
2018	221	174	47	21.27
2017	214	164	50	23.36
2016	186	147	39	20.96
2015	173	139	34	19.65
2014	155	125	30	19.35

### Foreign Filings by Headquarter Location – Core Filings



<sup>5</sup> Compiled using data from Stanford School of Law – [Securities Class Action Clearinghouse](#), a collaboration with Cornerstone Research and used with permission. [Core filings](#) are all federal securities class actions, excluding those defined as M&A filings, consolidated into one to prevent double counting.

US Securities Class Actions | Foreign Filers – All – Q1 2019 <sup>6</sup>

Filing Name <sup>7</sup>	Filing Date	District Court	Exchange	Ticker	HQ	Sector
Mobile TeleSystems PJSC : American Depositary Shares	03/19/2019	E.D. New York	New York SE	MBT	Russia	Services
United Microelectronics Corporation : American Depositary Shares	03/14/2019	S.D. New York	New York SE	UMC	Taiwan	Technology
NIO Inc. : American Depositary Shares	03/12/2019	E.D. New York	New York SE	NIO	China	Consumer Cyclical
Travelport Worldwide Limited	02/25/2019	N.D. Georgia	New York SE	TVPT	UK	Services
Amarin Corporation plc	02/22/2019	D. New Jersey	NASDAQ	AMRN	Ireland	Healthcare
WuXi PharmaTech (Cayman) Inc. : American Depositary Shares	02/21/2019	S.D. New York	New York SE	WX	China	Healthcare
Maiden Holdings, Ltd.	02/11/2019	D. New Jersey	NASDAQ	MHLD	Bermuda	Financial
Uxin Limited	02/11/2019	E.D. New York	NASDAQ	UXIN	China	Services
Wirecard AG	02/08/2019	C.D. California	OTC-BB	WCAGY	Germany	Technology
Vale S.A.	01/28/2019	E.D. New York	New York SE	VALE	Brazil	Basic Materials
Ferroglobe PLC	01/22/2019	S.D. New York	NASDAQ	GSM	United Kingdom	Basic materials
Qihoo 360 Technology Co. Ltd. : American Depositary Shares	01/17/2019	S.D. New York	New York SE	QIHU	China	Technology
DBV Technologies S.A.	01/15/2019	D. New Jersey	NASDAQ	DBVT	France	Healthcare
Danske Bank A/S	01/09/2019	S.D. New York	OTC-BB	DNKEY	Denmark	Financial
Sogou Inc.	01/09/2019	S.D. New York	New York SE	SOGO	China	Technology
China Techfaith Wireless Communication Technology Limited	01/08/2019	E.D. New York	NASDAQ	CNTF	China	Technology
Liberty Health Sciences Inc.	01/07/2019	S.D. New York	OTC-BB	LHSIF	Canada	Healthcare
Perrigo Company PLC	01/03/2019	S.D. New York	New York SE	PRGO	Ireland	Healthcare

<sup>6</sup> Compiled using data from Stanford School of Law – [Securities Class Action Clearinghouse](#), a collaboration with Cornerstone Research and used with permission.

<sup>7</sup> ADRs = American Depositary Shares

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