



## GLOBAL SHAREHOLDER LITIGATION

# REMEDIES THAT CROSS BORDERS

## Winning on a Global Playing Field

The United States has long been known for the protections it offers shareholders. But in 2010, the Supreme Court's decision in the Morrison case effectively placed U.S. judicial remedies off-limits to defrauded shareholders who invest in other countries—even if the actual fraud took place here. As a result, investors who had counted on the U.S. legal system to provide a check on corporate misconduct were left to seek redress in unfamiliar jurisdictions.

Outside of North America and some actions in Australia, most jurisdictions do not allow investors to remain passive and merely collect their pro rata share of any settlement or judgment. Instead, to pursue redress, investors must affirmatively opt-in and participate in litigation. The level of active involvement and participation is different in each jurisdiction and can be difficult to investors to effectively navigate. Kessler Topaz actively assists institutional investors in navigating this space.

Kessler Topaz quickly became a leader in helping shareholders pursue remedies in a post-Morrison world. In 2007, we served as co-counsel in the Netherlands' groundbreaking Royal Dutch Shell European Shareholder Litigation, resulting in a \$352 million recovery for non-U.S. investors in 2009. Since then, we have been involved in organizing and prosecuting some of the highest profile shareholder litigation in foreign jurisdictions around the globe including, inter alia, the [Olympus](#) action in Japan (\$92 million recovery), the [Fortis](#) action in the Netherlands (\$1 billion multi-party settlement), and the [Royal Bank of Scotland](#) action in the United Kingdom (£267 million recovered on behalf of our clients).

Our experience in analyzing, advising, and assisting clients with global shareholder litigation is unmatched. We are among the few law firms that actively monitor shareholder claims and actions worldwide, and we regularly advise institutional clients on all cases\*\* worldwide for which they are an affected investor. Our goal is to provide clients with detailed analyses and recommendations so that their decision-making process on whether or not, and when, to participate in cases outside the U.S. is a relatively easy and efficient one. Furthermore, if a client elects to participate in a given action, we

assist them in, not only registering to participate but in, supervising and participating in the active litigation for the duration of the case. Many non-U.S. shareholder actions take years to prosecute and resolve. We endeavor to keep all of our participating clients updated with all developments and to assist them with producing any required documentation and information. We have assisted our institutional clients with reviewing and analyzing hundreds of cases around the globe and with active participation in more than 50 non-U.S. cases in which, contrary to some of the high profile cases listed in the paragraph above, we were not directly involved.

## International Leadership

Through our border-crossing work, we have developed a deep understanding of foreign laws and procedures, as well as important relationships with lawyers and experts in more than a dozen countries. Our experience and relationships give clients a unique advantage in pursuing claims on a global basis.

Today, global shareholder litigation continues to evolve, as new jurisdictions begin to allow multiparty or group shareholder actions and debate class action procedures. We are committed to remaining at the forefront of these developments and expanding our resources to best serve shareholders around the world.

Learn more about shareholder litigation around the global with our [Primer](#).

**\*\*** Many jurisdictions outside the United States do not have public docketing systems or other central databases that allow for the screening of all cases that are filed. We devote considerable resources to screening for new actions around the globe and believe that we find and report on all significant shareholder litigation opportunities but could never claim to be aware of 100% of all cases filed in every jurisdiction across the globe.