

MARCH 2021

MONTHLY INSIGHTS

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A LOOK INSIDE:

*Increased Number
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U.S. SHAREHOLDER LITIGATION NEWS

Increased Number of U.S. Securities Suit Filings against Non-U.S. Companies in 2020

According to a new report from the Dechert law firm entitled "2020 Developments in U.S. Securities Fraud Class Actions Against Non-U.S. Issuers," the number of securities class action lawsuits filed against non-U.S. companies increased in 2020, even though the total number of securities suit filings went down. The report notes that Chinese companies faced the largest number of non-U.S. companies with securities suits filed against them. Chinese companies represented just slightly less than one third of all 2020 filings against non-US companies. A quarter of the cases were filed against companies from European countries including the United Kingdom, the Netherlands, and Germany.

[Read Full Report Here](#)

[Read D&O Diary Here](#)

[Read NY Law Journal Here](#)

DOL Tables Trump-Era Regulations Limiting Socially Conscious Investments by Retirement Plans

On March 10, 2021, the U.S. Department of Labor ("DOL") announced that it would table Trump-era regulations limiting socially conscious investments, so-called ESG funds, which attempt to advance environmental, social and corporate governance goals, while crafting new regulations that "better recognize the important role" of socially conscious investments in retirement plans. Trump era regulations, which went into effect in January, discouraged ESG investing by telling plan managers to focus only on funds' financial performance when stocking retirement plans. The Trump regulations resulted in disruption in the market, causing some companies to halt new investments in ESG funds and even drop existing funds from their plans' lineups. Analysts note, however, that even with the Biden administration adopting a more permissive attitude toward ESG investing, managers will still need to meet ERISA requirements and ensure that ESG funds constitute a good financial investment for the plan.

[Read Law360 Here](#)



SEC Rule Targets Chinese Firms After Luckin Coffee Scandal

On March 23, 2021 the U.S. Securities and Exchange Commission announced that it is in the final stage of implementing amendments to the Holding Foreign Companies Accountable Act ("HFCA Act") that will compel foreign companies to allow U.S. regulators to review their financial audits. The move puts some Chinese companies that previously rejected U.S. officials' audits at risk of being delisted.

The HFCA Act and amendments come in the wake of the Luckin Coffee scandal, which led to a \$180 million settlement on claims that the China-based coffee chain defrauded investors by misstating revenues, expenses, and net operating losses.

Globally the new amendments to the HFCA Act present issues for securities issuers. However, it is largely viewed as an attempt to clamp down on Chinese firms who have sought to evade U.S. accounting inspectors.

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[Read SEC Statement Here](#)

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Cornerstone Research Report on Securities Class Action Settlement for 2020: Larger Number of Settlements but a Lower Median Settlement Value Compared to 2019



On March 17, 2021, Cornerstone Research issued its annual report “Securities Class Action Settlements: 2020 Review and Analysis” (the “Report”). In the Report, Cornerstone found that the total number of securities class action settlements in 2020 (77) was only slightly above the total number in 2019 (74). However, despite the similar numbers of settlements reached, the aggregated total of all 2020 securities suit settlements was \$4.2 billion, double that of the \$2.0 billion achieved in 2019. The difference in aggregate settlement value is largely attributed to a few “mega settlements” for more than \$100 million.

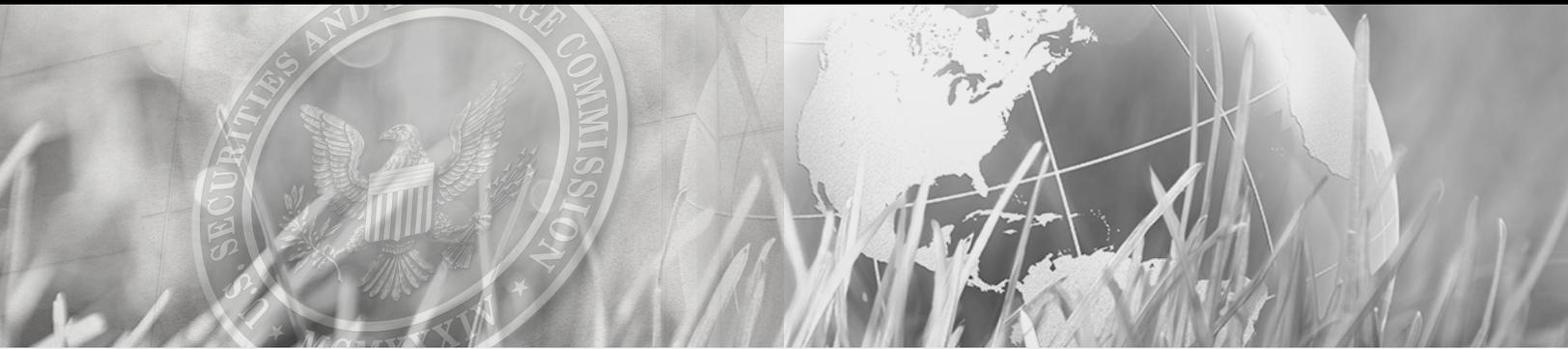
The Report also concludes that 2020 more closely reflected historical patterns for class action settlements rather than reflecting the trends seen in 2019. By way of illustration: the median settlement amount in 2019 (\$11.6 million) was a historically high median value, driven by a reduction in the overall number of small settlements. In 2020, by contrast, the median settlement (\$10.1 million) was lower because over 30% of cases settled in 2020 were for an amount below \$5 million. Additionally, public pension plan involvement was historically low in 2019, whereas in 2020 public pension plan involvement was more consistent with prior years. Public pensions were involved in 40% of the total number of 2020 settlements.

[Read Cornerstone's Report Here](#)

[Read Cornerstone Press Release Here](#)

[Read D&O Diary Here](#)

U.S. SHAREHOLDER LITIGATION NEWS



SEC Announces Creation of New Climate and ESG Task Force

Last month, U.S. Securities and Exchange Commission ("SEC") chief Allison Herren Lee, asked the Division of Corporation Finance to review the SEC's 2010 climate change disclosure guidance. Days later, she called for the creation of a new "global" climate-related disclosure framework. Experts have noted that political controversy around environmental, social and governance ("ESG")-related disclosures means that developing new regulations to address the issue is a likely years-long task, while any enforcement actions taken in the interim could bring a wave of litigation that puts the agency at the mercy of the courts.

In a move that could allow the agency to "fill the gap" before any new rulemaking or guidance is written, the SEC announced on March 4, 2021 that it had created a new task force to clamp down on ESG-related disclosure violations. In keeping with the SEC's mission of addressing emerging disclosure gaps that threaten investors, the new Climate and ESG Task Force will aim to "proactively identify" misconduct involving ESG issues and meet investor demand for ESG information. The initial focus of the task force will be to identify any "material gaps or misstatements" in issuers' climate risk disclosures.

Read Analysis and Background Information:

[Read Law360 Here](#)

Read the SEC's Press Release regarding creation of the ESG Taskforce here

[Read SEC Press Release Here](#)

CONTACT US

For more information on the content provided here, please contact Darren J. Check, Esquire at 610-822-2236 or dcheck@ktmc.com

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