



# RT SPECIALTY

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## The Rise of Collective Investor Actions in Europe

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# GLOBAL D&O CLAIMS ARENA

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## THE MOST SIGNIFICANT DEVELOPMENT

- Rise of Collective Investor Actions outside of the U.S.

# GLOBAL RISE IN COLLECTIVE INVESTOR ACTIONS

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**Netherlands, March 2016:** Ageas Announces **€1.204 Billion** Settlement of

Fortis Investor Claims

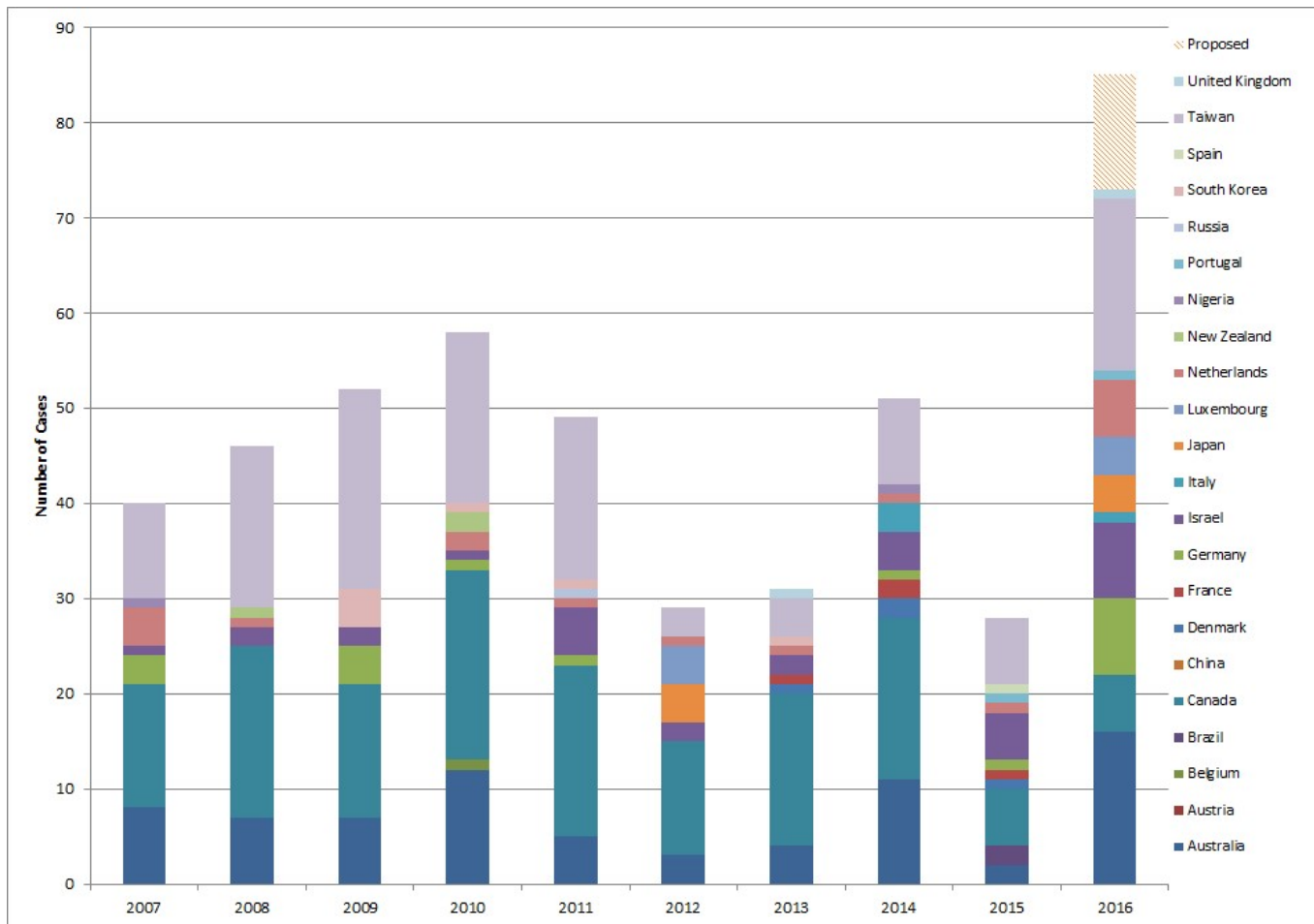
- Settlement Agreed Under Dutch Act on the Settlement of Mass Claims (WCAM)
- Fortis's D&O Insurance Contributes €290 million
- Judgment Enforceable Throughout the E.U.

**U.K., December 2016:** RBS Announces **£800 Million** Settlement with Three of

Five Investor Groups

- Claims Asserted under Section 90 of the Financial Services and Markets Act 2000.

# Rise of Non-U.S. Collective Investor Actions



# Global Rise of Collective Investor Actions

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## Countries with Active Securities Class Action Litigation

- U.S., Australia, Canada, Israel

## Countries with Developed Collective Investor Action Procedures

- Japan, Germany, U.K., Netherlands

## Other Countries with Available Securities Class Action Procedures

- South Korea, Thailand, India, Denmark, Sweden, Poland

# Global Rise of Collective Investor Actions (Cont'd)

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## Countries Where Scandals Led to Collective Action Reforms

- Germany: Deutsche Telecom
- India: Satyam
- Brazil: Petrobras

# EU COLLECTIVE REDRESS

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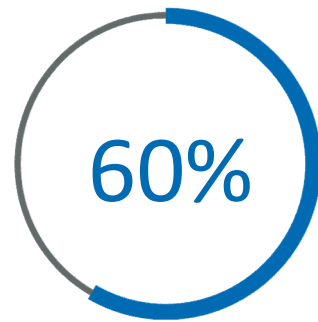
Source: The Growth of Collective Redress in the EU, U-S- CHAMBER, Institute for Legal Reform, March 2017

# AIG EUROPE REPORT

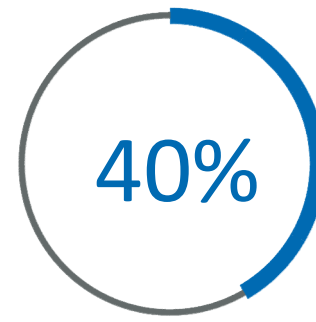
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“RISE OF EUROPEAN SHAREHOLDER CLASS ACTION?” (NOV. 16, 2016)

Findings from AIG report of 50 Largest Shareholder Claims between 9/1/08 – 11/30/15:



Claims entirely outside  
the United States



Claims entirely or partly  
in United States

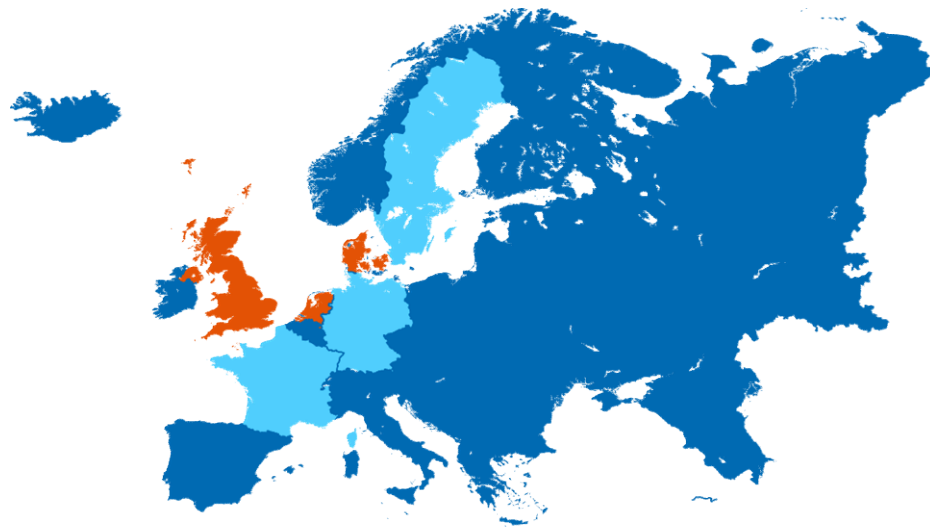


# AIG EUROPE (CONTINUED)

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## “RISE OF EUROPEAN SHAREHOLDER CLASS ACTION?” (NOV. 16, 2016)

Findings from AIG report of 50 Largest Shareholder Claims between 9/1/08 – 11/30/15:



Report noted a rise in Collective Investor Actions in Europe

### **Most Prominent**

U.K., Netherlands, Denmark

### **Increasing Activity**

France, Germany, Sweden

# AIG Europe

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## Frequency and Severity Analysis

Revenue	D&O Claims Frequency (% of total cases)	Severity (% of total losses incurred)
\$0-\$500 million	46%	30%
\$500 million - \$1 billion	10%	4%
\$1 billion to \$5 billion	10%	8%
Over \$5 billion	34%	58%

# CONTRIBUTING FACTORS

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## RISE OF COLLECTIVE INVESTOR ACTIONS

1. U.S. Supreme Court's 2010 Decision in *Morrison v. National Australia Bank*
2. Legislative Reform
3. Rise of Third-Party Litigation Financing
4. Entrepreneurial Activity of U.S. Plaintiffs' Law Firms
5. Increased Regulatory Activity in the Wake of the Financial Crisis
6. Wave of Corporate Scandals

# IMPACT OF INCREASING LITIGATION FUNDING

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**Increased Frequency:** Lawsuits that might not otherwise be filed are being filed

**Likely Increased Future Frequency:** Litigation funders are financing legal innovation, creating pathways for future claimants

**Increased Severity:** Claimants with litigation financing have staying power, driving up defense costs and possibly cost of settlement

*We have already seen all of these trends in Australia and Canada*

# LOOKING AHEAD

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- AIG Europe: High profile cases could “pave the way” for similar actions in the future
- Legislative reforms continue
  - e.g., Thailand adopted class action procedures effective December 2015
- Funding firms, plaintiffs’ bar will continue to push and innovate
- Future scandals will drive demand for shareholder redress