



**THE INTRODUCTION
OF CLASS ACTIONS
IN BELGIUM**



Consequences for the banking sector

Prof. Dr. Ianika N. Tzankova

This presentation

- An academic view
- Challenge traditional positions
- Class actions are beneficial for Banking sector

What triggered this presentation

FD 3 March 2011:

“Collectieve schadeacties als troefkaart”

by Olav Haazen (US class action lawyer)

Summary FD article

- Cross-listing of companies in the US is beneficial for the market value of those companies:
 - > 13,9 % on average;
 - > 31,2 % on average listing NYSE;
- Cross-listing a US company on a European stock exchange does not deliver the same result;

Summary FD article

- Higher investor protection standards US;
- US class action;
- Academic literature on bonding;

Summary FD article

- In June 2010 US Supreme Court rules in Morrison
- Pre Morrison: f-cubed class actions protected non-US investors even if they invested in non-US companies on non-US exchanges
 - > Conduct test
 - > Effect test
- Post Morrison: class actions protect non-US investors only if they invested in US companies listed on US exchanges

Conclusion FD article

- Morrison decision is a step backwards for US legal market;
- Morrison decision is two steps forward for US capital markets:
 - > Only investors that invest in US companies benefit from high US investor protection standards (= class actions)

A critical note on FD article

- Bonding (= higher investor protection= class action) is not the only reason to cross list abroad;
 - > Market segmentation;
 - > Market liquidity;
 - > Information disclosure;
 - > Other

A critical note on FD article

- There is still a lot we do not know about cross-listing motivations of companies;
 - > Smaller firms may be opting for UK exchanges;
 - > Academic literature ignores cross-listings on non-US exchanges but there are many cross-listings in Europe and Asia;
 - > Cross-listings on Anglo-Saxon exchanges create more value than on other exchanges;
- Effects investor protection can not be attributed solely to class actions (US regulation contributes also to high investor protection).

Conclusion

- Corporations cross-listed in the US have higher market value;
- US financial system has a high level of investor protection;
- Class actions contribute at least to some extent to that;
- Class actions can be a good business case for the EU Banking sector...

The question is...

Can the EU Banking sector afford to disagree?

Contact details

Universiteit van Tilburg
Postbus 90153
5000 LE Tilburg

NautaDutilh
P.O. Box 7113
1007 JC Amsterdam