

Securities Litigation FlashSM

Quarterly Update

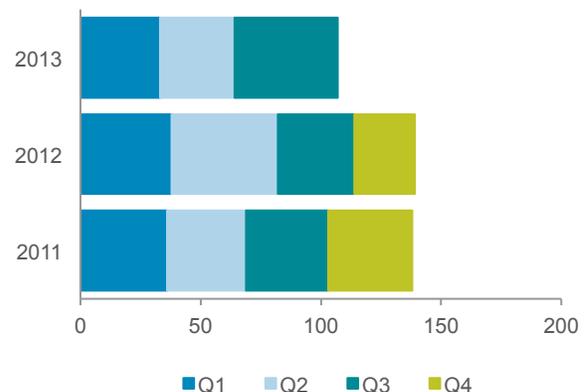
CRA Charles River Associates

July 1–September 30, 2013

Key highlights

- Q3 2013 filings totaled 43, up 34% versus Q3 2012 and 39% versus Q2 2013
- Investment banks were named as defendants in three Q3 2013 filings with Section 11 claims
- Q3 2013 filings are concentrated in the technology (nine cases), energy (seven cases), healthcare equipment (five cases), retail (four cases), and pharmaceuticals/biotechnology (four cases) sectors

Filing trends—End of Q3 2013



Filing trends. Filings during Q3 2013 totaled 43, an increase of 34% from the 32 cases filed during Q3 2012 and an increase of 39% from the 31 cases filed during Q2 2013. Q3 2013 filings occurred in 12 districts representing 8 states, with 42% of the filings in the state of New York (18 cases) and 28% of filings in the state of California (12 cases). Filings against US-based companies comprised 74% of the total filings in Q3 2013 (32 cases) versus 88% in Q3 2012 (28 cases) and 84% in Q2 2013 (26 cases).

Subject companies. Q3 2013 filings cover a wide range of industries but are primarily concentrated in the technology (nine cases), energy (seven cases), healthcare equipment (five cases), retail (four cases), and pharmaceuticals/biotechnology (four cases) sectors. Out of the 43 filings, three were made against companies with market capitalization exceeding \$10 billion by the end of the class period (Juniper Networks, Kohl's, Microsoft). In Q3 2013, 11 cases were filed against companies with headquarters or significant operations outside the US.

Complaint allegations. Twenty Q3 2013 filings question some aspect of company accounting, fifteen of which include allegations of weak internal controls. Auditors were named as defendants in only one of these filings (Subaye). Among the rest of the Q3 2013 filings, the allegations included false statements on prospects or requirements of FDA drug approval (Accentia Biopharmaceuticals, MiMedx Group, OvaScience), false claims to Medicare and Medicaid (NuVasive), non-compliance with national labor laws (ECotality), corruption and bribery (Juniper Networks, PetroChina), insider trading (Elan), a "pump and dump" scheme (Liberty Silver), and illegal export of products (Valley Forge Composite Technologies). In Q3 2013, investment bank underwriters were named as defendants in three filings related to the initial public offerings of the subject companies (CafePress, LinnCo, Vocera Communications), all of which included Section 11 claims.

Class period statistics. While most of the Q3 2013 filings were in response to recently disclosed events, four cases (Elan, Kohl's, SemiLEDs, Subaye) have class periods ending in 2011 or earlier with the beginning of the class period going back to 2006 (Elan). The length of the class period in Q3 2013 filings ranges from 75 days (LightInTheBox) to almost five years (NuVasive). 49% of the filings have class periods less than one year and 26% of the filings have class periods longer than two years.

Learn more. CRA's case totals include filings from US courts on behalf of public company holders of common stock, preferred stock, or ADRs (Source: RiskMetrics). Filings in multiple jurisdictions involving the same subject company with identical or substantially similar class periods are counted as a single filing. Derivative actions and breach of fiduciary duty filings are not included. To learn more about the cases referenced in this report as well as other securities class actions tracked by CRA, visit CRA's Securities Litigation Flash website at www.crai.com/theflash.

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