THE INTRODUCTION
OF CLASS ACTIONS
IN BELGIUM
Consequences for the banking sector

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This presentation

- An academic view
- Challenge traditional positions
- Class actions are beneficial for Banking sector
FD 3 March 2011:

“Collectieve schadeacties als troefkaart”

by Olav Haazen (US class action lawyer)
• 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;
• 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
• 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?
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