Pensions Age

Pensions and the People

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Every year pension funds based outside the US with holdings in American securities forego hundreds of millions of dollars owed to them. By not claiming their fair share of settlements in US securities class actions, trustees may inadvertently be depriving their fund members of substantial recoveries.

But when no appropriate investor steps forward to represent the interests of international class members, US courts can deny international investors any share in a settlement. For example, in the 2003 case of *In re DaimlerChrysler AG Securities Litigation*, defendants successfully argued that the interests of non-US investors could not be adequately protected without a non-US class representative. When the case was settled in 2004 for $300m, no money was disbursed to non-US investors because they had no representation in the case. Similarly, in the case of Enron, certain bonds were only offered for sale overseas, and if non-US investors had not stepped forward. they too would have not been included in the class.

In an effort to prevent such unfair results, international investors are taking an increasingly active role in US securities class actions. From 1996-2008, institutional investors sought to serve as lead plaintiff in a US securities class-action lawsuit in over 130 separate cases.

The current credit crisis has only increased the stakes for global investors. In 2008, US class-action investor lawsuits rose nearly 20% over the year prior, and collectively claimed damages of $900bn – the highest total in six years. Given the global reach of the scandals that are rocking the market, there has never been a greater need for international pension funds to step forward to protect the interests of their members and the integrity of the markets.