TO SUE OR NOT TO SUE

INSTITUTIONAL INVESTOR LEGAL FORUM

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“This is the question”:

- When shareholders’ rights are ignored or vague, the way to the court is short.
- The risk behaviour of some banks leading to both exasperation and court.
- Notwithstanding cost and risks of having to bear all court expenses.
"Why shooting in your own foot..."

- Was the fear of our previous policy when we wished not to attack our own property
- Therefore favoured targets were and still are: (rich) insurance companies covering the responsibilities of faulty board members, (prosperous) external auditors, (powerful) banks and other "fund-rich" third parties
Collective actions

- Even with bundled claims, still a question of proportions: Fortis and the hedge funds intervention
- While “Desperate housewives” and “defrauded shareholders” rejected by political and banking tricks and phones welcomed Modrikamen who responded to the anger of shareholders towards arrogant incompetence of banking leaders
“gentlemen” agreements: faster and cheaper but sometimes in search of the gentleman

Arbitrage: expensive, only for big deals, «normal judge» procedure along NAI rules

Shell and other deals not to be misinterpreted

Non abusing collective actions: real claims!

Investors not to rely on sandy beaches of paradise islands
Where does the money come from?
- Third parties most of the time in larger deals
- Most of the monies come from Director & Insurance Policy
- It rarely makes sense for individuals to sue
- No win, no pay = policy in USA
Global alliances, cooperation between national associations

USA input

Insisting on dialogue, on installation of real “independent risk committees” within banks rather than having later to go to court, again

Acting as reasonable and therefore convincing partners within and outside the courtroom