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CORNERSTONE RESEARCH

Economic and Financial Consulting and Expert Testimony

Potential Implications of the COVID-19 Pandemic for Securities and Derivative Litigation

May 14, 2020

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Will Securities Lawsuits Come?

Will This Time Be Different?

“The underpinnings of the COVID-19 crisis are fundamentally different, the lawyers said, **than those of the 2008 crash**.... Shareholders sued to prove that banks and other defendants deliberately misrepresented not just the quality of the securities but also the risk they faced from exposure to toxic mortgage-backed certificates and more complex instruments referencing them.

This time, said Toll, Leviton, Bleichmar and Darren Robbins of Robbins Geller Rudman & Dowd, **there’s no analogous systemic deception. Fraud claims will be idiosyncratic**....”

Alison Frankel, “Shareholders’ class action lawyers: We’re not rushing to bring COVID-19 cases,” *Reuters*, 3/17/20

Will This Time Be Different?

“...[P]laintiffs’ lawyers I spoke to said they have no intention of filing reflexive class actions alleging that companies slammed by the pandemic failed to provide adequate risk warnings to shareholders. **‘Trying to take advantage of a worldwide tragic epidemic disaster?’** said Steven Toll of Cohen Milstein Sellers & Toll. **‘I just hope those suits aren’t brought.’**”

Robbins and Leviton said they do expect companies to disclose bad news in the midst of stock market volatility, just as they did in the 2008 crisis, in order to use broad declines in stock indexes to camouflage investor reaction to their disclosures. More than 90% of the companies whose shares drop in a marketwide sell-off haven’t engaged in fraud, Robbins said. But **the end of a bull market may expose executives who have relied on misrepresentations to buoy their share prices.**”

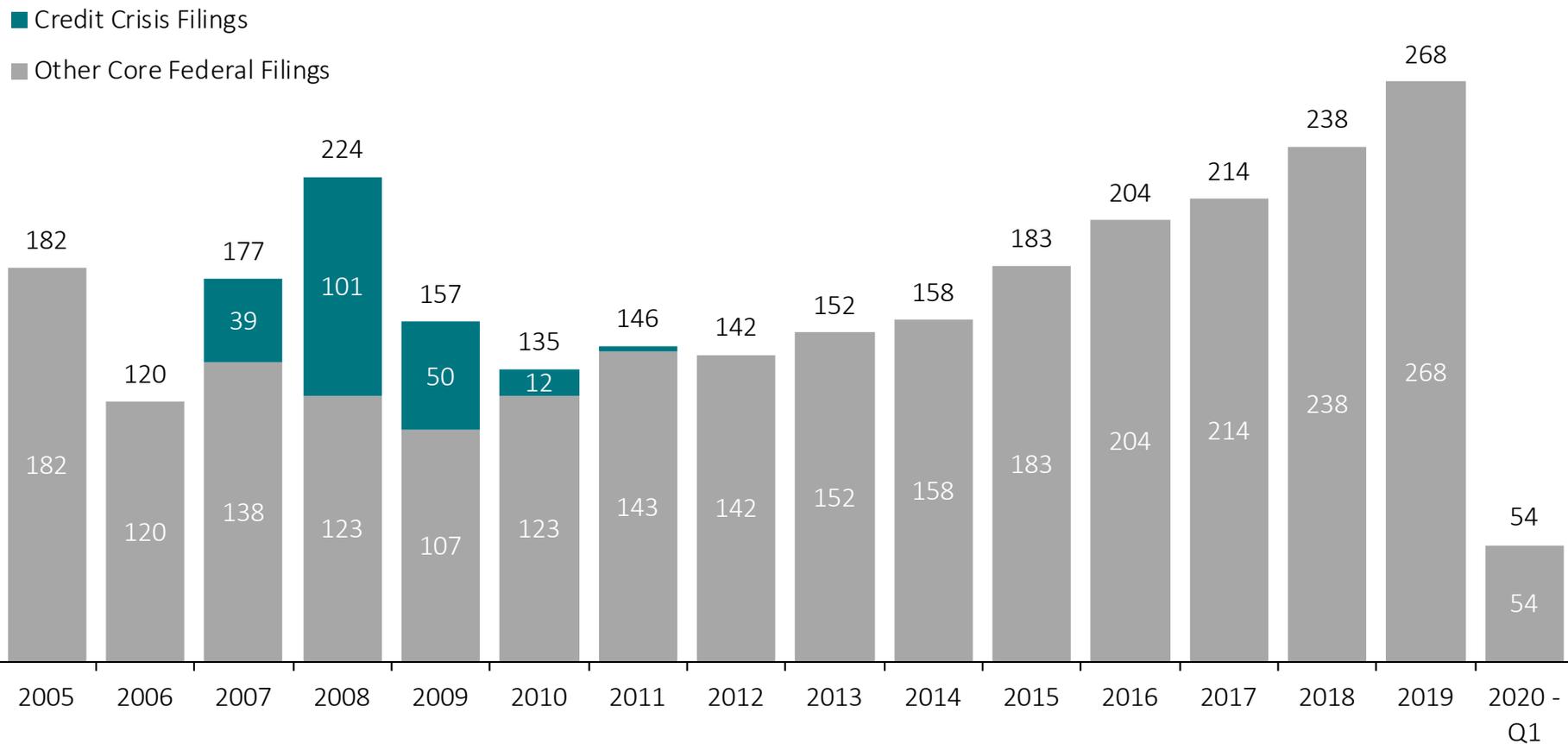
Alison Frankel, “Shareholders’ class action lawyers: We’re not rushing to bring COVID-19 cases,” Reuters, 3/17/20

Will This Time Be Different?

“While there may be more volatility during a global crisis, companies revealing corrective disclosures will see their stocks continuing to move downward ‘net of market- or industry related volatility,’ according to Bernstein Litowitz Berger & Grossmann LLP partner Salvatore Graziano. ***‘We saw this in the 2008 crisis on a company-by-company basis where we had no issue demonstrating loss causation... Bottom line, if you are committing fraud, you should be more worried now than ever,’*** Graziano said. ***‘There will be no place to hide in market volatility.’***”

Dean Seal, “As Investor Suits Tick Up, Loss Causation May Be A Hard Sell,” Law360, 5/4/20

Annual Federal and State Securities Class Action Filings 2005–2020

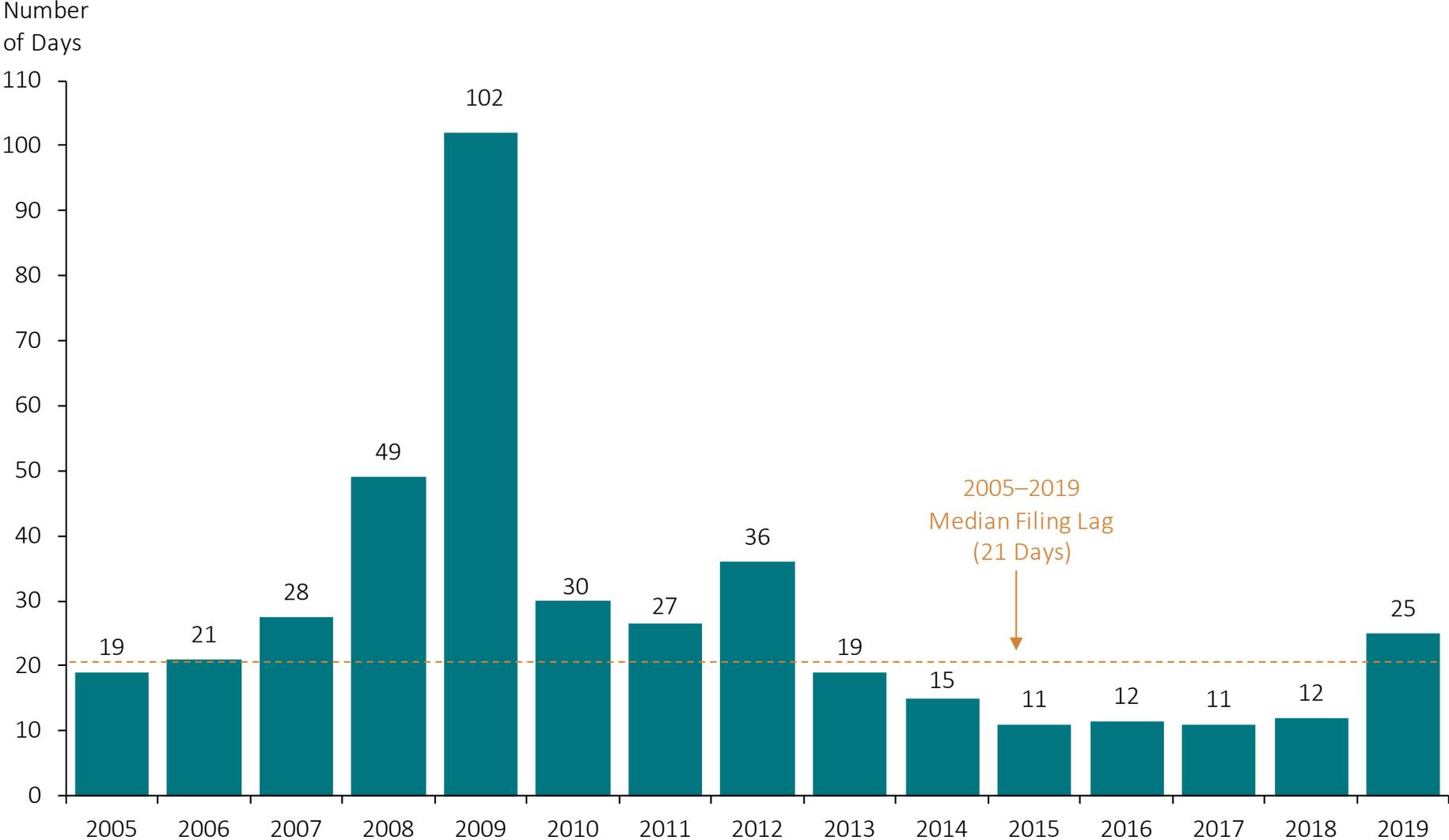


Note: Cornerstone Research began tracking state filings in 2010. Filing counts before 2010 include only federal filings. Credit crisis filings refer to filings with claims related to the 2008 credit crisis.

Securities Lawsuits Have Nevertheless Been Filed

- *Douglas v. Norwegian Cruise Lines*, No. 20-cv-21107 (S.D. Fla. Mar. 12, 2020) (accusing company and two executives of falsely downplaying seriousness of COVID-19 in public filings and communications with prospective customers)
- *McDermid v. Inovio Pharm. Inc.*, No. 20-cv-1402 (E.D. Pa. Mar. 12, 2020) (alleging that Inovio's CEO made false and misleading statements about a potential vaccine for COVID-19)
- *Drieu v. Zoom Video Communications, Inc.*, No. 20-cv-02353 (N.D. Ca. April 7, 2020) (asserting claims under Sections 10(b) and 20(a) against Zoom, its CEO and CFO for allegedly false and misleading statements about the Company's privacy and security measures)
- *Wandel v. Gao*, No. 20-cv-03259 (S.D.N.Y. Apr. 24, 2020) (accusing Phoenix Tree, a company that leases and operates residential properties in China, of misleading investors about risk of impact of COVID-19)
- *Yannes v. SCWorx Corp.*, No. 1:20-cv-03349 (S.D.N.Y. Apr. 29, 2020) (claiming SCWorx misled investors by announcing it was able to sell millions of COVID-19 rapid testing kits when its supplier had misrepresented its operations and the buyer it was working with was unable to support the purported volume of orders)

The Wave of Litigation May Be Delayed

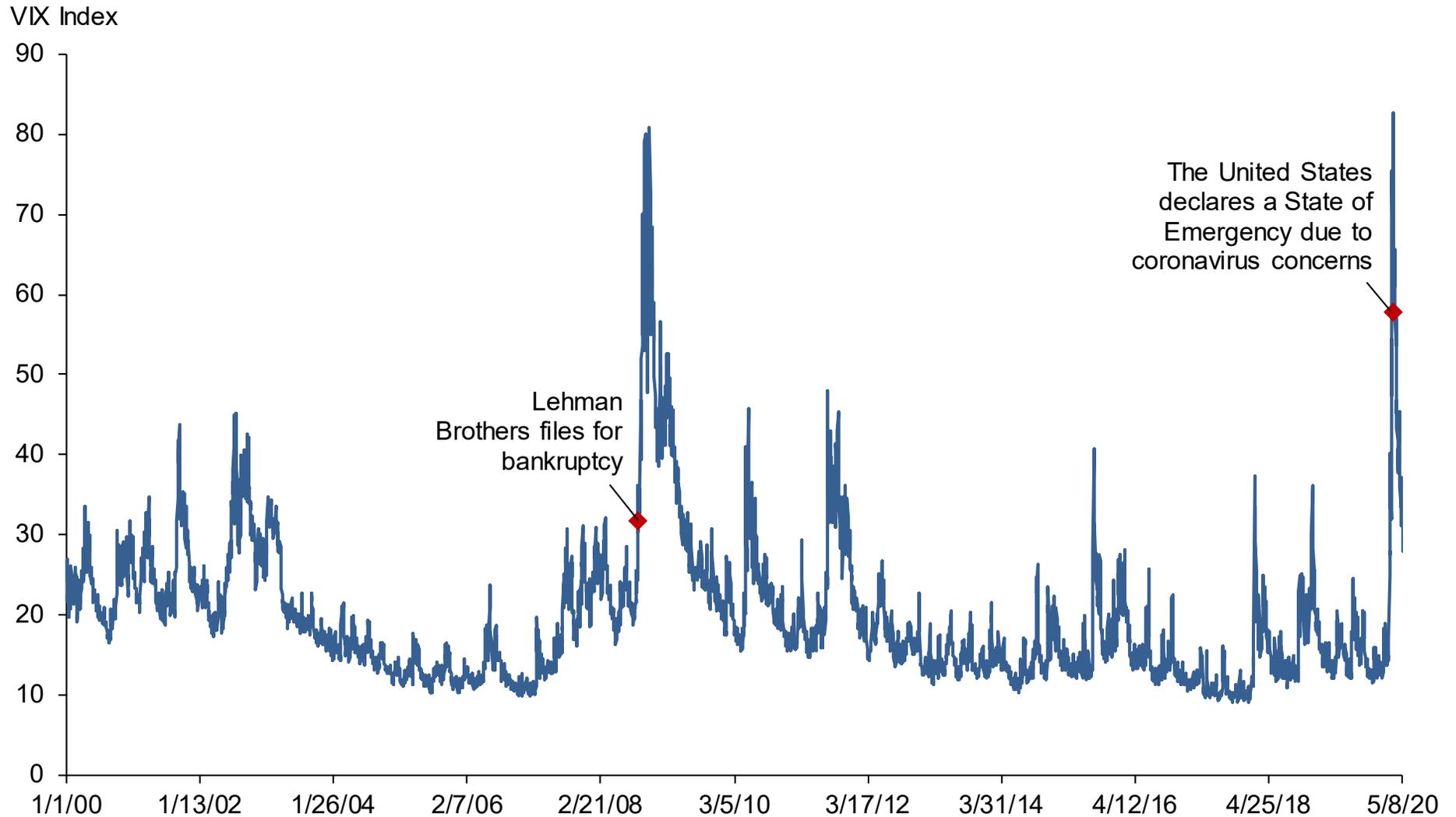


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COVID-19 Bear Market: Parallels with and Differences from the Credit Crisis

The VIX Index Measures Expected Volatility

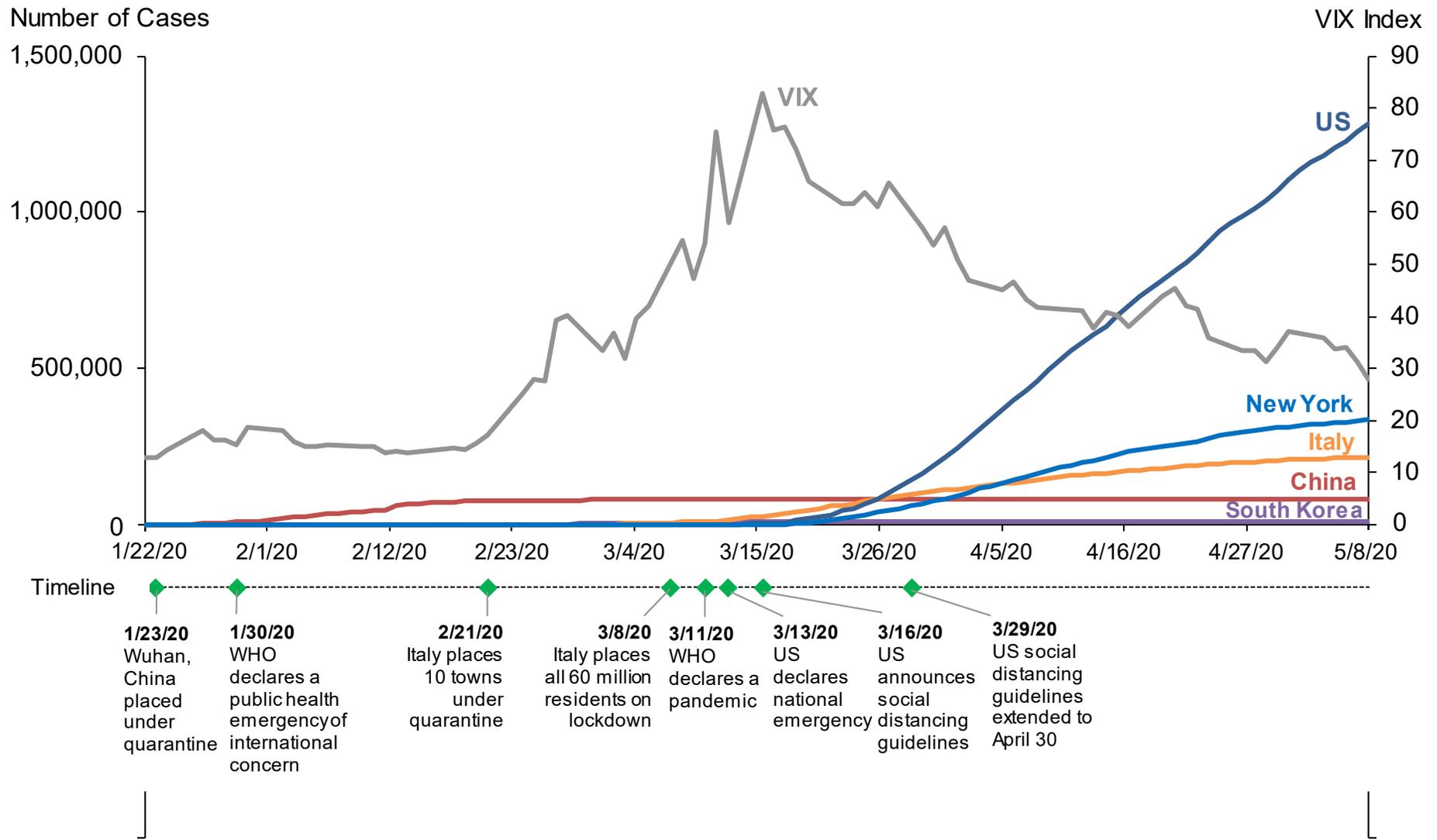
VIX Index: 1/1/00 – 5/8/20



Source: Thomson Reuters

Note: The "VIX Index" axis reflects the daily close prices of the CBOE Market Volatility Index.

Extreme Volatility Is Driven by Public Health Uncertainty



Source: Johns Hopkins University Center for Systems Science and Engineering; *The New York Times*; *Business Insider*; *Yahoo News*

Uncertainty

- ***Then:*** Who holds “toxic” assets? How many homeowners will default? How low will housing prices go?
- ***Now:*** When and how will economic life start returning to normal? How will various sectors be affected?
- ***Now and Then (before the stimulus was passed):*** Uncertainty over government policy responses and availability of bank financing compounds uncertainty as to who can weather the storm.
- ***Now and Then (after the stimulus was passed):*** How will the trillions of fiscal and monetary stimulus impact the economy and particular issuers?

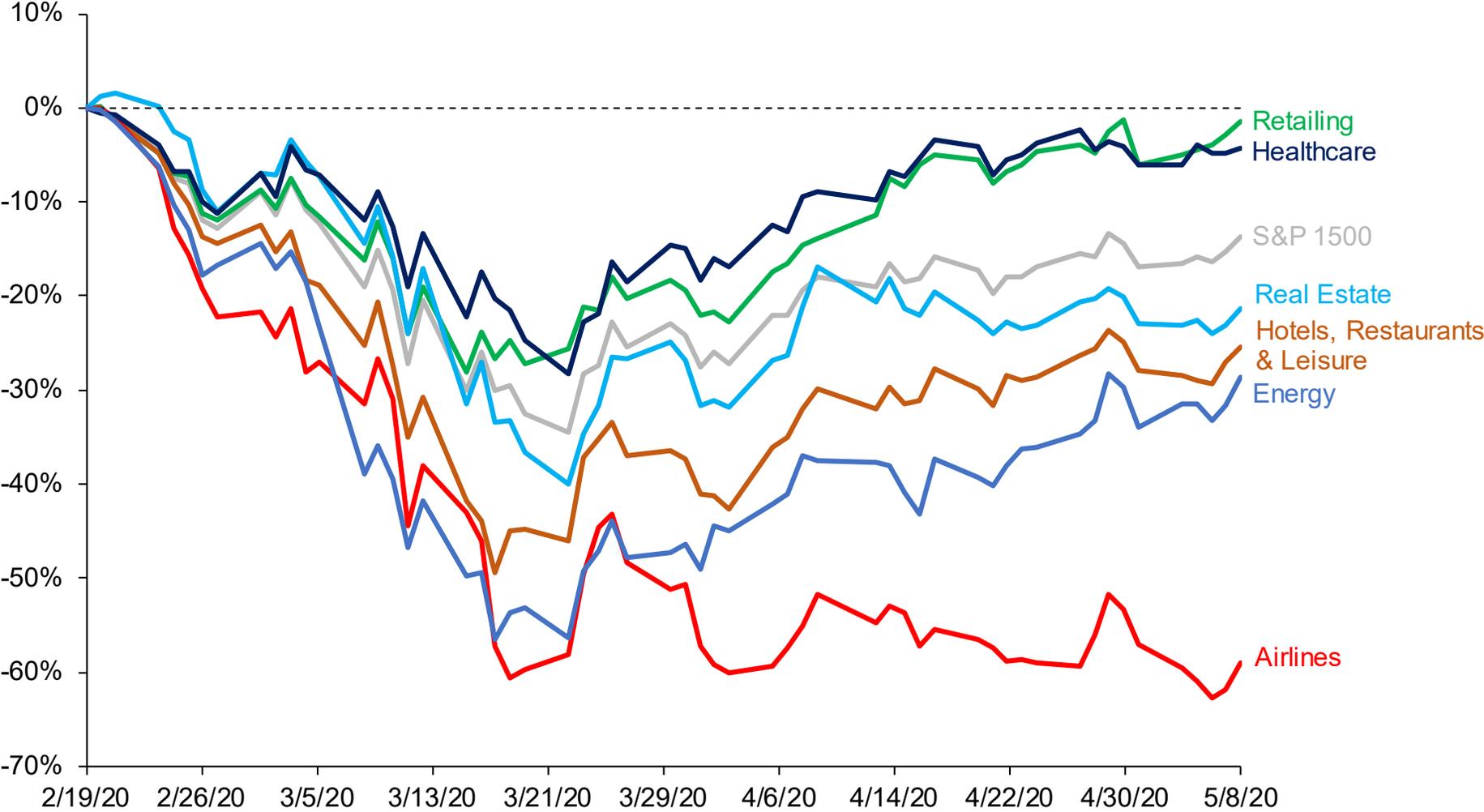
Liquidity Crunch

- **Then:** Credit dried up as financial institutions at the center of the crisis stopped lending.
- **Now:** Revenues dried up in the aftermath of public health policy decisions and consumer fears.
- **Now:** Will some financial institutions scale back lending in response to rising uncertainty and credit losses?
- **Now:** To what extent did various systematic trading strategies and other trading disruptions contribute to market illiquidity?

Industries Have Been Affected Differently

S&P 1500 and Select Industry Indices

2/19/20 – 5/8/20



Source: Refinitiv

Note: All sector indices, are pegged to 0% on 2/19/20, which is the day that the S&P 1500 reached its maximum value.

3

Disclosure Issues

A. Forward-Looking Statements

- **The Private Securities Litigation Reform Act (“PSLRA”)** provides for a “safe harbor” from liability for certain forward-looking statements:
 - Identified as forward-looking and accompanied by “meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the forward-looking statement”; or
 - They are “immaterial”; or
 - Where plaintiff fails to prove that the statements were made with *actual knowledge* that they were false or misleading.
- **The “bespeaks caution” doctrine** is a judicially created doctrine that protects issuers from securities fraud claims based on forward-looking statements if those statements contain adequate risk disclosures to caution readers about specific risks that may materially impact the forecasts.

PSLRA Safe Harbor: 2008 Financial Crisis

Boilerplate disclosures of present risks will not be protected.

In re Bear Stearns Cos. Securities, Derivative, & ERISA Litigation,
763 F. Supp. 2d 423 (S.D.N.Y. 2011)

- After Bear Stearns's collapse investors filed a securities class action claiming among other things, that Bear Stearns made misrepresentations about its risk management functions and valuation and risk ("VaR") models and failed to disclose its determination that its models were outdated and did not reflect the housing and subprime mortgage downturn.
- The court concluded that Bear Stearns's statements were not entitled to safe-harbor protection because most of the ***"allegedly misleading statements about VaR models and the results provided by the VaR models [we]re statements of present risk factors,*** rather than forward-looking predictions about future events." *Id.* at 493 (emphasis added).

PSLRA Safe Harbor: 2008 Financial Crisis

In re Bear Stearns Cos. Securities, Derivative, & ERISA Litigation,
763 F. Supp. 2d 423 (S.D.N.Y. 2011)

- For those statements that could be deemed forward-looking, they were still not shielded because “Bear Stearns provided general ***boilerplate risk warnings*** that its VaR models might not accurately predict the future ***when it allegedly knew, but withheld from investors, that its VaR models were fundamentally flawed.***” *Id.* at 495 (emphasis added).
- The *Bear Stearns* holding demonstrates the importance of making clear that any statements of projections or estimates are forward-looking and that those disclosures are ***accompanied by meaningful and specific cautionary language about future risks.***

Bespeaks Caution: 2008 Financial Crisis

Disclosures will not be protected if warnings are generic and fail to disclose known, specific risks.

In re American International Group, Inc. 2008 Securities Litigation,
741 F. Supp. 2d 511 (S.D.N.Y. 2010)

- Plaintiffs alleged that AIG misrepresented the extent of its exposure to risks associated with subprime residential mortgage market.
- The court rejected AIG's defense that, because many of its alleged misrepresentations were forward-looking and accompanied by risk disclosures, that AIG was entitled to protection under the bespeaks caution doctrine.
- The court found that AIG's "general disclosures" were insufficient "in light of undisclosed 'hard facts critical to appreciating the magnitude of the risks described'" such as the known weaknesses of AIG's models and weakening of risk controls. 741 F. Supp. 2d at 532.

Bespeaks Caution: 2008 Financial Crisis

Cautionary language should be adequate when it precisely and explicitly addresses the risks.

In re Fannie Mae 2008 Securities Litigation, 742 F. Supp. 2d 382 (S.D.N.Y. 2010)

- “Plaintiffs’ underlying material concern with Fannie’s alleged misrepresentations is presumably that investors could not properly gauge the degree of risk that Fannie’s subprime and Alt–A investments represented to them. ***Fannie repeatedly disclosed, however, that it was subject to fluctuations in the subprime and Alt–A markets.***” *Id.* at 401. (emphasis added)
- Example: “Declines in housing prices could result in increased delinquencies or defaults on the mortgage loans we own or that back our guaranteed Fannie Mae MBS.” - 2005 Form 10–K.
- Example: “We are in the midst of a significant correction in housing and mortgage markets...We expect these factors will continue to affect our financial condition...” - 2007 Q 3 Form 10-Q.

Bespeaks Caution: 2008 Financial Crisis

Cautionary language should be adequate when it precisely and explicitly addresses the risks.

In re Ambac Financial Grp., Inc. Securities Litigation,
693 F. Supp. 2d 241 (S.D.N.Y. 2010)

- “[T]he allegedly undisclosed risk is that the investors in Ambac’s March 2008 Offerings might lose money resulting from the poor performance of Ambac’s insured portfolio However, the ***graphic risk disclosures ...put investors on notice that [] Ambac had guaranteed risky products exposed to the severely troubled and deteriorating subprime mortgage market ...***” *Id.* at 280 (emphasis added).
- Examples: Ambac is “subject to credit risk and other risks related to RMBS and CDOs of ABS” ...”further deterioration in performance of the subprime mortgage section is generally expected.”

Past is Prologue: Challenge to COVID-19 Risk Disclosures

Phoenix Tree Holdings Ltd.

- On April 24, 2020, a purported class-action complaint was filed against Phoenix Tree, and its directors, officers, and underwriters claiming violations of Sections 11, 12(a)(2) and 15 of the '33 Act alleging that:
 - Offering materials prepared in connection with the company's January 2020 IPO contained material misrepresentations and omissions regarding renter complaints and the demand in the Chinese residential rental market and the company's exposure to adverse developments resulting from COVID-19;
 - The company warned that "business could be adversely affected" by viral outbreaks or epidemics, noting that "operations could be disrupted" if employees were suspected of having any such disease and that financial results "could be adversely affected" if the Chinese economy were to be harmed by any such epidemic; and
 - "[A]s of the effective date" of the offering materials, "the coronavirus was already ravaging China – particularly Wuhan, which was widely regarded as the epicenter of the virus and a significant hub for Phoenix."

B. Item 303 of Regulation S-K

- Item 303 requires a company to “describe any known trends or uncertainties that have had or that the registrant reasonably expects will have a material favorable or unfavorable impact on net sales or revenues or income from continuing operations.”
- Disclosure “is necessary where a trend, demand, commitment, event or uncertainty is both presently known to management and reasonably likely to have material effects” on financial condition or results.
- Circuit courts are split as to whether Item 303’s duty to disclose can be a basis for a securities fraud claim under Section 10(b) of the Exchange Act.
- The Second Circuit has held that such omissions can be actionable under Rule 10b-5.
See Indiana Public Retirement System v. SAIC, 818 F.3d 85 (2d Cir. 2016).
- The Ninth Circuit has held that they are not.
See In re NVIDIA Securities Litigation, 768 F.3d 1046, 1054-56 (9th Cir. 2014).

Item 303: 2008 Financial Crisis

Although companies should reveal trends as soon as they become known, companies should not be penalized for failing to predict trends or their impacts before it is reasonably possible to do so.

Int'l Fund Management S.A. v. Citigroup Inc.,
822 F. Supp. 2d 368 (S.D.N.Y. 2011)

- Plaintiffs alleged that Item 303 required Citigroup to disclose its auction rate securities (“ARS”) holdings and the liquidity problems associated with them. According to plaintiffs, “a known trend in the collapse of [Citigroup’s] ARS business, and the inability to sell ARS securities on its books” triggered Citigroup’s disclosure obligation pursuant to Item 303.
- The court found that the plaintiff could not establish that a rising trend already existed or that Citigroup reasonably expected a trend to have a material impact on its financial results at the time of the relevant disclosures.

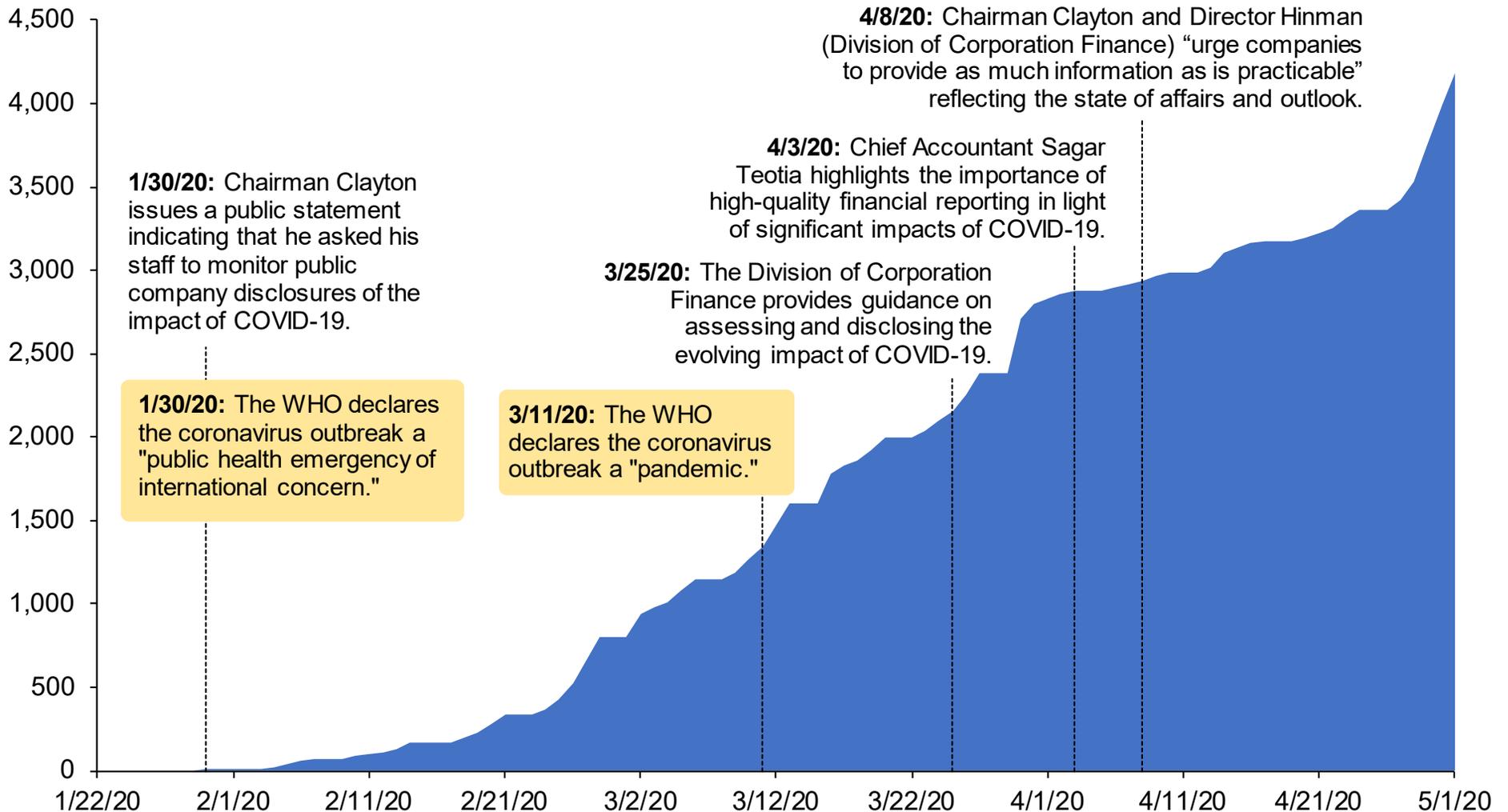
C. Takeaways: Disclosures in the COVID-19 Environment

- **Forward-looking statements** are protected where risks are addressed explicitly and specifically.
- **Companies should update risk factors** to include discussions of:
 - Operations in areas severely impacted by COVID-19;
 - Disruption of production, supply chain or distribution systems, closure of stores or places of business;
 - Loss of contracts, decreased demand for products or services, impact on human resources.
- **Companies should enhance MD&A discussions** of “known trends or uncertainties” and their impact on financial performance, liquidity, and capital resources.
 - To the extent that KPIs are used to track the impact of COVID-19, provide explanations for why these metrics are helpful.

4

Accounting Issues

Public Company Disclosures of the Impact of COVID-19 Grow Amidst Increased Regulatory Focus

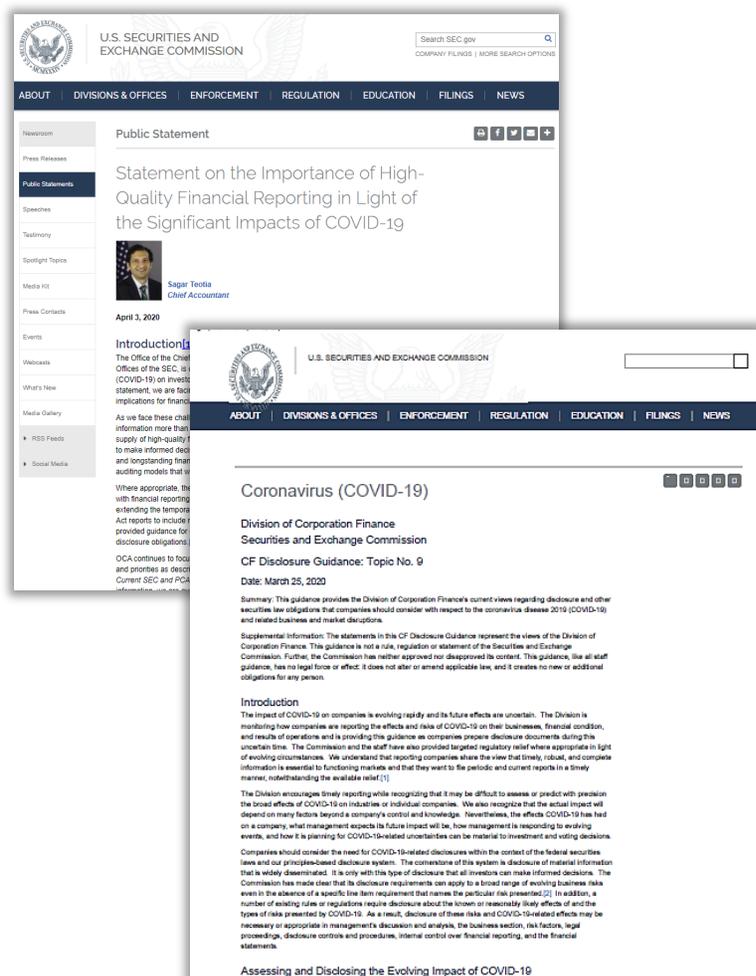


Source: SEC Edgar Database

Note: 1. Filings include 10-Ks, 10-Qs, 20-Fs, and 40-Fs.

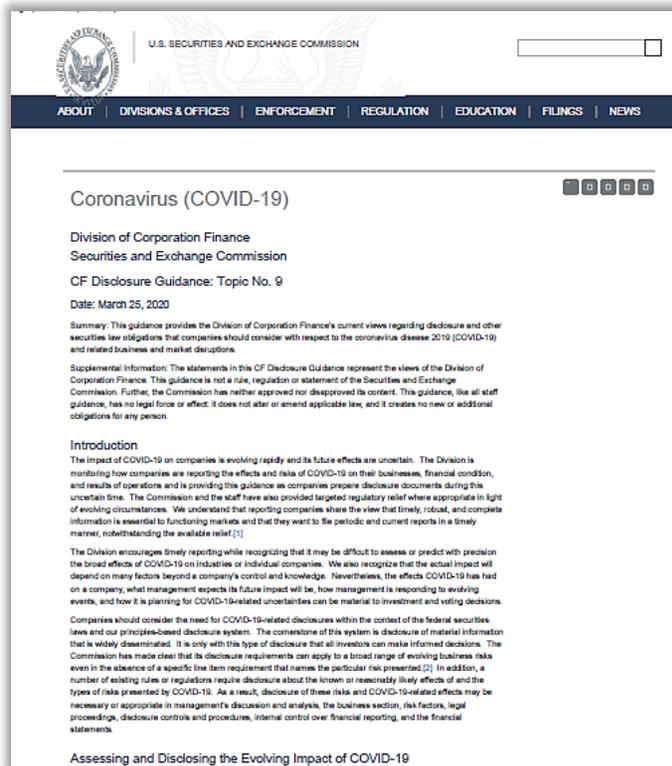
2. SEC filings include those referencing "COVID-19," "Coronavirus," "SARS-CoV-2," and variants of those terms.

The Impact of COVID-19 on Financial Statements



- The SEC has identified a broad range of financial statement items and disclosures that may be needed, including:
 - Asset impairments (e.g., investment securities, intangible assets, goodwill)
 - Allowances for credit losses
 - Loss contingencies
 - Going concern
 - Subsequent events

The Impact of COVID-19 on Non-GAAP Measures



The screenshot shows the SEC website page for 'Coronavirus (COVID-19)'. The page header includes the SEC logo and navigation links: ABOUT, DIVISIONS & OFFICES, ENFORCEMENT, REGULATION, EDUCATION, FILINGS, NEWS. The main content area is titled 'Coronavirus (COVID-19)' and includes the following text:

Division of Corporation Finance
Securities and Exchange Commission
CF Disclosure Guidance: Topic No. 9
Date: March 25, 2020

Summary: This guidance provides the Division of Corporation Finance's current views regarding disclosure and other securities law obligations that companies should consider with respect to the coronavirus disease 2019 (COVID-19) and related business and market disruptions.

Supplemental Information: The statements in this CF Disclosure Guidance represent the views of the Division of Corporation Finance. This guidance is not a rule, regulation or statement of the Securities and Exchange Commission. Further, the Commission has neither approved nor disapproved its content. This guidance, like all staff guidance, has no legal force or effect: it does not alter or amend applicable law, and it creates no new or additional obligations for any person.

Introduction
The impact of COVID-19 on companies is evolving rapidly and its future effects are uncertain. The Division is monitoring how companies are reporting the effects and risks of COVID-19 on their businesses, financial condition, and results of operations and is providing this guidance as companies prepare disclosure documents during this uncertain time. The Commission and the staff have also provided targeted regulatory relief where appropriate in light of evolving circumstances. We understand that reporting companies share the view that timely, robust, and complete information is essential to functioning markets and that they want to file periodic and current reports in a timely manner, notwithstanding the available relief.^[1]

The Division encourages timely reporting while recognizing that it may be difficult to assess or predict with precision the broad effects of COVID-19 on industries or individual companies. We also recognize that the actual impact will depend on many factors beyond a company's control and knowledge. Nevertheless, the effects COVID-19 has had on a company, what management expects its future impact will be, how management is responding to evolving events, and how it is planning for COVID-19-related uncertainties can be material to investment and voting decisions.

Companies should consider the need for COVID-19-related disclosures within the context of the federal securities laws and our principles-based disclosure system. The cornerstone of this system is disclosure of material information that is widely disseminated. It is only with this type of disclosure that all investors can make informed decisions. The Commission has made clear that its disclosure requirements can apply to a broad range of evolving business risks even in the absence of a specific time-term requirement that names the particular risk presented.^[2] In addition, a number of existing rules or regulations require disclosure about the known or reasonably likely effects of and the types of risks presented by COVID-19. As a result, disclosure of these risks and COVID-19-related effects may be necessary or appropriate in management's discussion and analysis, the business section, risk factors, legal proceedings, disclosure controls and procedures, internal control over financial reporting, and the financial statements.

Assessing and Disclosing the Evolving Impact of COVID-19

- The SEC has focused on non-GAAP measures (e.g., adjusted for non-recurring items). Those measures should not:
 - Be presented for the sole purpose of presenting a more favorable view of the company, or
 - Adjust recurring cash operating expenses, such as salaries.

The Impact of COVID-19 on Internal Controls over Financial Reporting



- The SEC has focused on the need to assess and disclose material changes in internal controls resulting from the effects of COVID-19 (e.g., remote working arrangements).
- During 2019, two out of three accounting class action filings contained allegations of internal control weaknesses.

See Cornerstone Research, *Accounting Class Action Filings and Settlements*, 2019 Review and Analysis.

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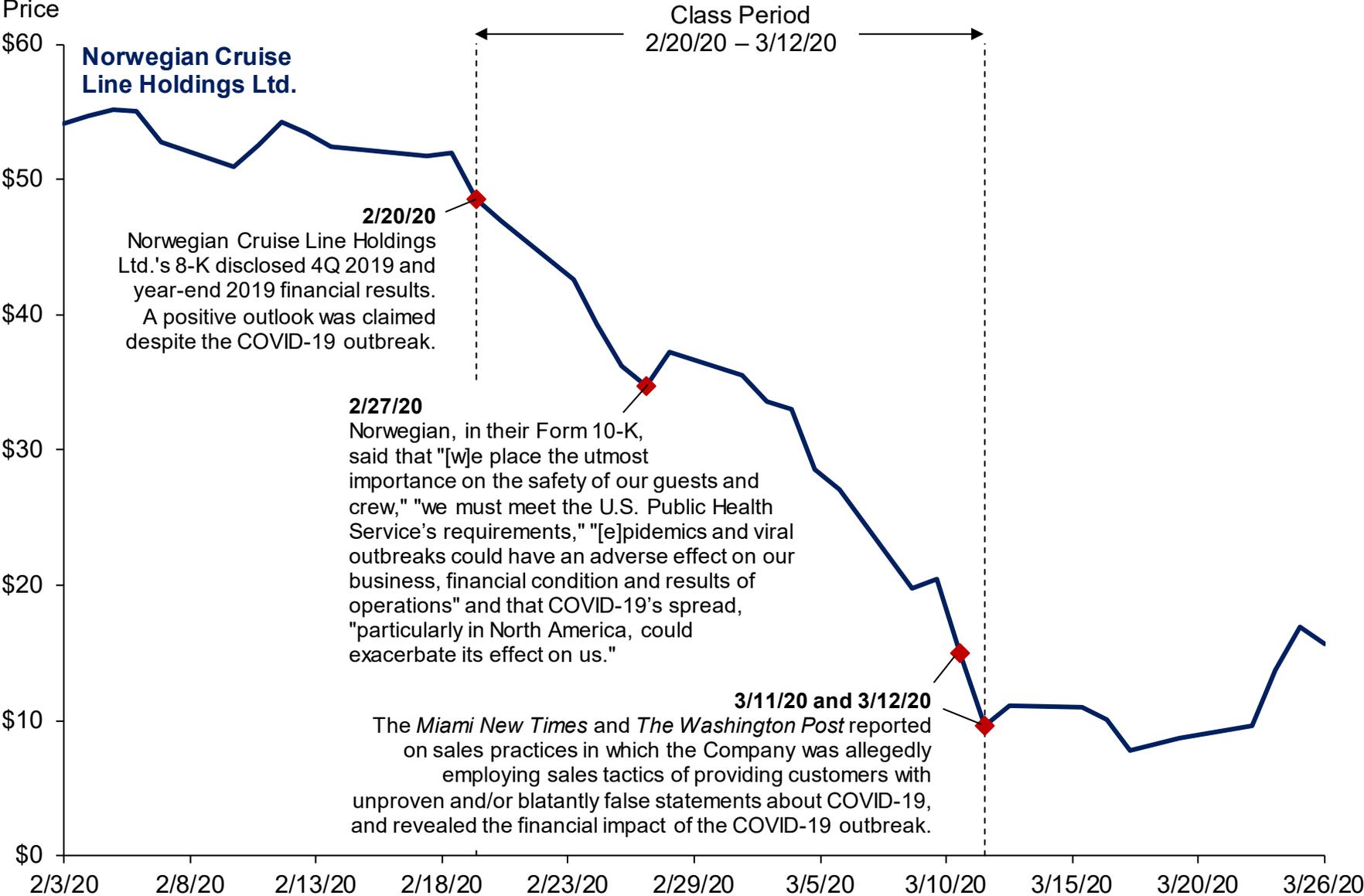
Issues in Potential Economic Analysis for Loss Causation and Damages

Key Economics Questions in Loss Causation and Damages Analysis

- Is there a statistically significant price decline?
 - How to properly control for market/industry factors and changing volatility?
- What was new and “corrective” in the alleged corrective disclosure? Any confounding news? Any collateral effects?
- Were stock price declines caused by materialization of disclosed risk?
- Can one “back-cast” stock price declines in estimating price inflation and damages?
 - Rapidly evolving situation means corrective disclosure may not match early “but-for” disclosure, and the same set of company, industry and market conditions rarely hold.

Was the Decline Statistically Significant?

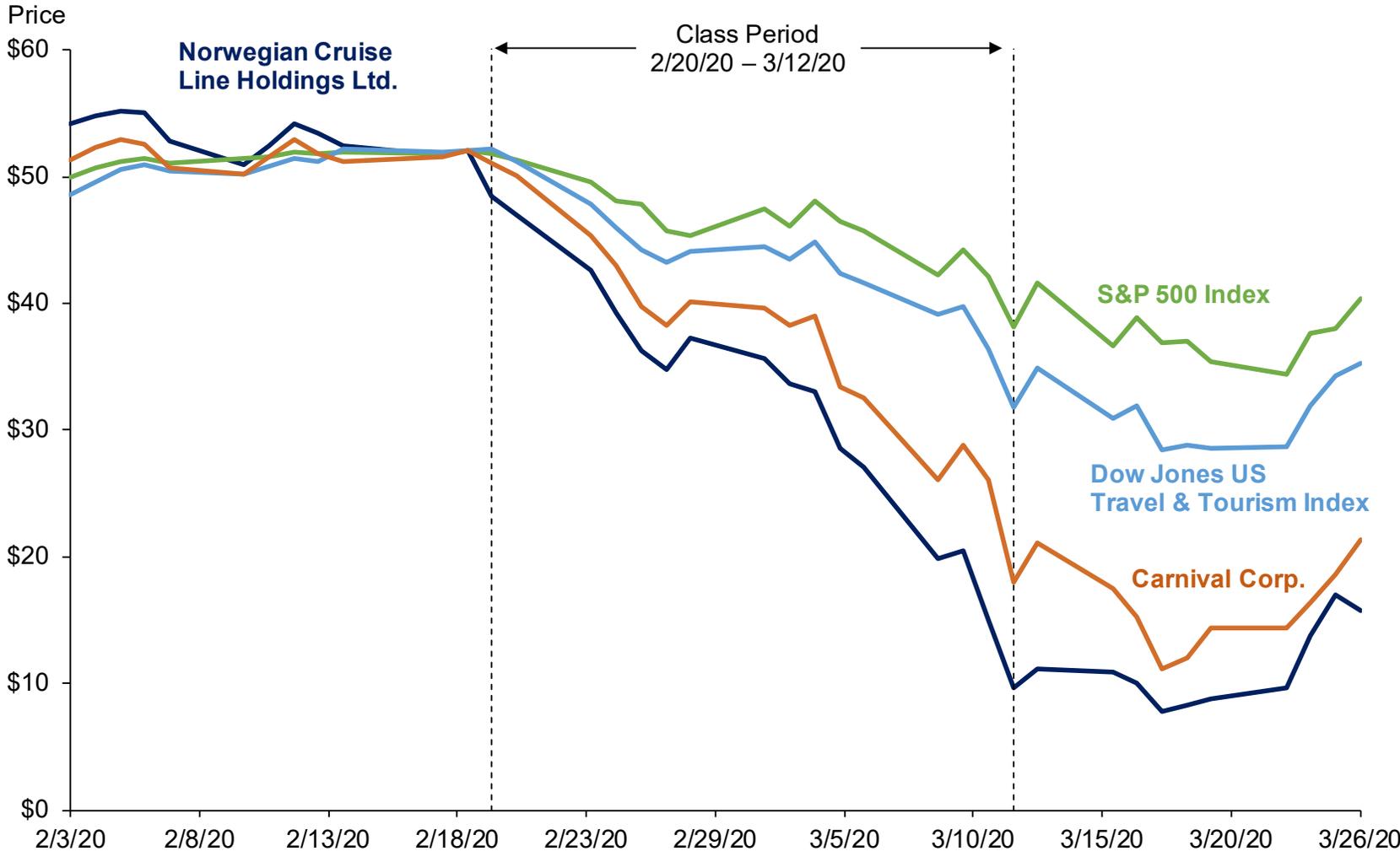
Norwegian Cruise Line Holdings Ltd. Closing Stock Price 2/3/20 – 3/26/20



Source: Thomson Reuters Eikon; Complaint dated 3/12/20

Was the Decline Statistically Significant, cont'd?

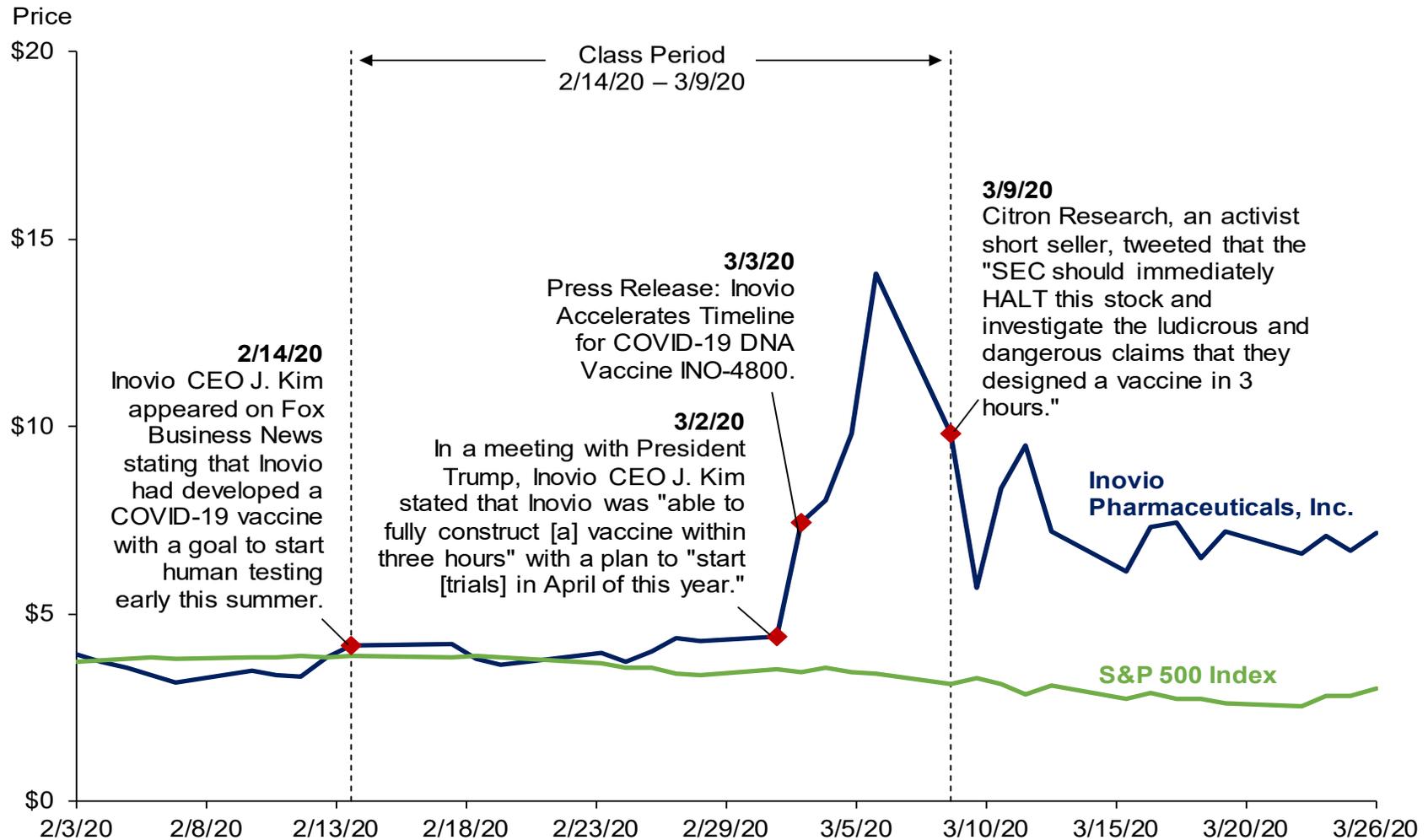
Norwegian Cruise Line Holdings Ltd. Closing Stock Price vs. Selected Indices 2/3/20 – 3/26/20



Source: Thomson Reuters Eikon; Complaint dated 3/12/20
 Note: Indices and Carnival Corp. are pegged to Norwegian Cruise Line Holdings Ltd. closing stock price of \$52.02 on 2/19/20, the trading day before the Class Period begins.

Did Inovio Stock Price React to Allegation Related Information?

Inovio Pharmaceuticals, Inc. Closing Stock Price 2/3/20-3/26/20



Source: Thomson Reuters Eikon; Complaint dated 3/12/20

Note: The S&P 500 index is pegged to Inovio Pharmaceuticals, Inc.'s closing stock price of \$3.86 on 2/13/20, the trading day before the Class Period begins.

Can Intraday Analyses Aid Loss Causation Inquiry?

Inovio Pharmaceuticals, Inc.

Intraday Stock Price

3/9/20



Source: Tick; Refinitiv; Twitter.com

Note: The chart shows volume weighted price for each second for Inovio.

Short Interest Index: Historic and Recent Trend

1973 – 2014

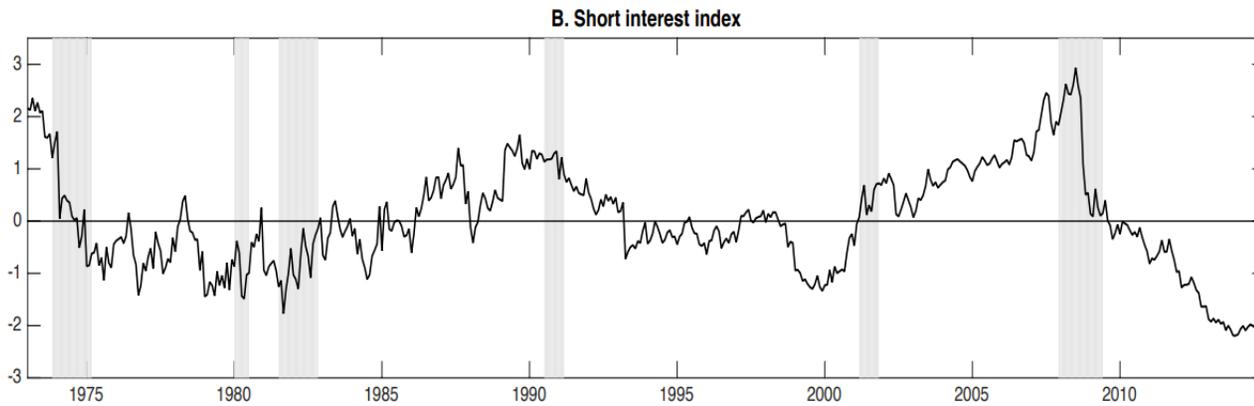
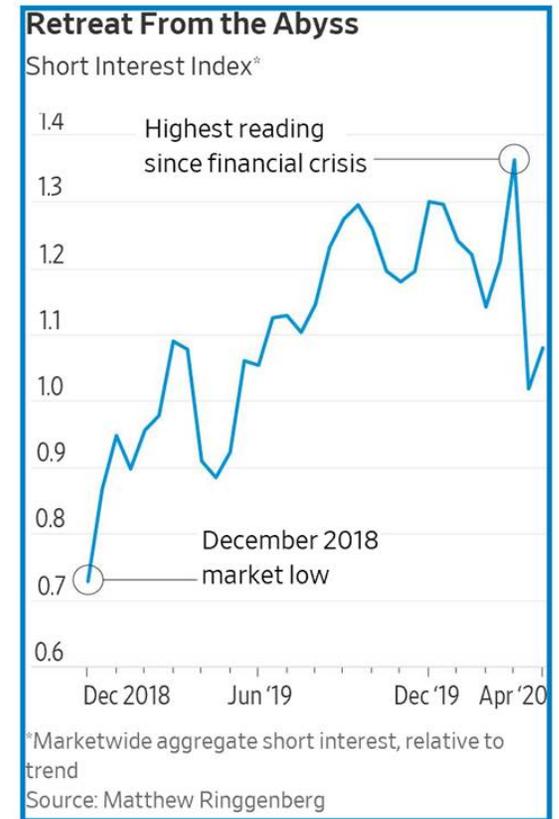


Fig. 1.

Panel B delineates the deviation in the solid line from the dashed line in Panel A, where the deviation has been standardized to have a standard deviation of one. Vertical bars depict NBER-dated recessions.

2018 – April 2020



Mark Hulbert, *What the Short Sellers Are Telling Us*, The Wall Street Journal (May 3, 2020), <https://www.wsj.com/articles/what-the-shorts-sellers-are-telling-us-11588516952>.

6

Fiduciary Duties and Best Practices

Fiduciary Duties: Oversight Liability

- Corporate directors generally owe certain fiduciary duties to the corporation, including the duty of loyalty and the duty of care.
- Under Delaware law, where most companies are incorporated, “a director must make a good faith effort to oversee the company’s operations. Failing to make that good faith effort breaches the duty of loyalty and can expose a director to liability.” *Marchand v. Barnhill*, 212 A.3d 805, 820 (Del. 2019) (citing *In re Caremark Int’l Inc. Deriv. Litig.*, 698 A.2d 959, 970 (Del. Ch. 1996)).
- A claim based on allegations of such oversight liability—known as a *Caremark* claim—is universally recognized as “possibly the most difficult theory in corporation law upon which a plaintiff might hope to win a judgment.” *Caremark*, 698 A.2d at 967.

Fiduciary Duties: Oversight Liability

- *Caremark* claims generally encompass two different types of claims that directors breached their duty of oversight:
 - The directors utterly failed to implement any reporting or information system or controls; *or*
 - Having implemented such a system or controls, [the directors] consciously failed to monitor or oversee its operations thus disabling themselves from being informed of risks or problems requiring their attention.
 - *Stone ex rel. AmSouth Bancorp. v. Ritter*, 911 A.2d 362, 370 (Del. 2006).
- To mitigate the risk of oversight liability directors should confirm that information reporting or control systems are in place in the first instance and act in good faith when responding to “red flags.”

Fiduciary Duties: Best Practices

- Boards of directors and committees should maintain complete and accurate minutes to carefully document directors' consideration of, and response to, the impact of COVID-19 on their business.
- Additional steps that directors and officers may consider taking include:
 - Forming a COVID-19 pandemic board subcommittee to address urgent issues, and ensure the audit committee and disclosure committees coordinate with the auditors and risk management teams, respectively, so as to provide the most accurate reporting and effective disclosures;
 - Implementing business continuity contingency plans that address the reduced access to company premises, prepare for the event senior management becomes ill or incapacitated, and enhance cybersecurity protection for the increase in remote-access; and
 - Ensuring that information and reporting systems remain adequate by preparing written materials prior to any board meeting and requiring management to deliver updates about the business to the board on a continuous basis.

Professional Profiles

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Jennifer L. Conn is a litigation partner in the New York office of Gibson, Dunn & Crutcher. She is a member of Gibson Dunn's Litigation, Securities Litigation, Securities Enforcement, Appellate, and Privacy, Cybersecurity and Consumer Protection Practice Groups.

Ms. Conn is a commercial litigator, who has extensive experience in a wide range of complex commercial litigation matters, including those involving securities, financial services, accounting, business restructuring and reorganization, antitrust, contracts, and information technology. Prior to joining Gibson Dunn, Ms. Conn was an associate with Cravath, Swaine & Moore in New York. She also was a law clerk for the Honorable Lawrence M. McKenna, United States District Judge for the Southern District of New York.

Ms. Conn received her Juris Doctor from Columbia University School of Law in 1995, where she was a Harlan Fiske Stone Scholar. She graduated, *cum laude* with distinction in all subjects, from Cornell University, College of Arts and Sciences, in 1992, with a Bachelor of Arts in Government.

Ms. Conn regularly writes and speaks on various subjects, particularly those relating to securities litigation. She is the co-editor and a co-author of the Firm's Practising Law Institute Treatise, *Securities Litigation: A Practitioner's Guide*.

In addition, Ms. Conn is an Adjunct Professor of Law at Columbia University School of Law, lecturing on securities litigation.

Ms. Conn is admitted to practice in the State of New York, the District of Columbia (inactive status), the United States District Courts for the Southern and Eastern Districts of New York and the Eastern District of Wisconsin, the United States Courts of Appeal for the Second and Eighth Circuits, and the United States Supreme Court.

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Avi Weitzman is a litigation partner in the New York office of Gibson, Dunn & Crutcher. He is a member of the White Collar Defense and Investigations, Crisis Management, Securities Enforcement and Litigation, and Media, Entertainment and Technology Practice Groups. Mr. Weitzman is a nationally recognized trial and appellate attorney, with experience handling complex commercial disputes in diverse areas of law, white-collar and regulatory enforcement defense, internal investigations, and securities litigations.

In the last few years at Gibson Dunn, Mr. Weitzman has had leading roles in several of the Firm's most high-profile matters, including representing Chevron Corporation in a ground-breaking two-month federal RICO trial barring the enforcement of a \$9 billion Ecuadorian judgment against Chevron that *The American Lawyer* called "The Case of the Century"; representing the Office of the Governor of New Jersey in connection with the George Washington Bridge toll lane realignment; representing VOOM HD Holdings in its multi-billion dollar trial against DISH Network, which resulted in a mid-trial settlement valued at well over \$1 billion; representing Rio Tinto in an SEC enforcement action and related securities class action related to a \$3.5 billion impairment of coal assets in Mozambique.

Before joining Gibson Dunn, from 2005 to 2012, Mr. Weitzman served as an Assistant United States Attorney in the Southern District of New York, where he tried twelve federal criminal jury trials to verdict. As a member of the Securities and Commodities Fraud Task Force, Mr. Weitzman investigated and prosecuted a wide range of federal securities fraud offenses, and coordinated parallel civil proceedings with the Securities and Exchange Commission. Mr. Weitzman played a leading role in many of the government's highest-profile insider trading cases, including the Raj Rajaratnam insider trading case, serving as lead counsel in the first "expert network" insider trading trial (*United States v. Winifred Jiau*), and leading the Government's investigation of SAC Capital and portfolio manager Mat Martoma, which resulted in the largest single-trade insider trading scheme ever charged.

Mr. Weitzman has received national recognition and awards for his achievements and litigation skills. In 2012, Mr. Weitzman received the Attorney General's Distinguished Service Award from Attorney General Eric Holder for his work on the Raj Rajaratnam insider trading case. He has been named a "Rising Star" by the *New York Law Journal* and by *Law360* in the White Collar category. In addition, Mr. Weitzman is recognized by *The Best Lawyers in America*® as a leading lawyer in the area of Criminal Defense: White-Collar.

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Lori Benson is the head of Cornerstone Research's New York office. Over the course of her more than twenty years with the firm, she has prepared strategy and expert testimony in all aspects of litigation, including trials, arbitrations, settlements, and regulatory inquiries. She has worked on a broad range of cases in financial economics including securities, valuation, bankruptcy, and asset management.

Ms. Benson has extensive experience in fixed income, structured finance and derivatives litigation. She has worked on cases involving municipal bonds, asset-backed securities, residential mortgage-backed securities, repurchase agreements, treasuries and corporate debt. She has valued portfolios of derivatives, commodities, foreign exchange, swaps and collateralized debt obligations (CDO). She has assessed trading strategies, risk management, disclosure issues, ISDA contracts and market conditions. Ms. Benson has also analyzed the appropriateness of margin calls along with securities lending and financing arrangements. She has analyzed various financial markets for collusion and market manipulation claims including financial benchmarks and OTC markets.

Ms. Benson has 20-plus years of experience in securities cases and has analyzed the impact of news on stock price, valuation, liquidity, volatility, and trading behavior. Ms. Benson has addressed, class actions, opt-out case, ADRs, Insider Trading claims and market manipulation claims.

Ms. Benson has performed valuations of companies and assets in a wide range of industries. She has applied her valuation expertise in the context of mergers and acquisitions, contract disputes, and trademark infringement. She has valued intangibles such as brands, licensing rights, and trademarks.

One industry focus of Ms. Benson is financial institutions. She has worked on cases involving banks, hedge funds, insurers, broker-dealers, mutual funds, and asset management firms. Ms. Benson has evaluated: antitrust claims, NAV, suitability of investments, risk management, disclosure requirements, portfolio performance, trading algorithms and lending practices.

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Yan Cao is a Vice President at Cornerstone Research's New York office. Dr. Cao specializes in issues related to financial economics and financial reporting across a range of complex litigation and regulatory proceedings. Her experience covers securities, market manipulation, M&A, and bankruptcy matters. Dr. Cao's case experience spans a wide range of industries, with a focus on financial institutions. She has led large teams and worked with multiple experts in all stages of the litigation process. Dr. Cao's work includes substantial trial experience. Dr. Cao is a Chartered Financial Analyst (CFA) and a Certified Public Accountant (CPA).

Dr. Cao had fifteen years of experience consulting on securities class actions that cover a wide variety of industries. Dr. Cao has experiences analyzing issues related to market efficiency, price formation, price impact, loss causation, and damages. She worked on notable securities class action cases such as *In re Moody's Securities Litigation*, in which the court denied class certification and granted summary judgment for defendants; and *IBEW Local 90 Pension Fund v. Deutsche Bank AG et al.*, in which the court denied class certification.

She also focuses on regulatory investigation and enforcement matters led by the SEC, the CFTC, the DOJ, the NY Fed, and state AGs. She has presented analysis before the regulatory enforcement staff on behalf of clients. She has extensive experience analyzing alleged market manipulation and disruptive trading violations such as spoofing, wash trades, barrier options, front running, benchmark manipulation claims in various financial markets (fixed income, FX, equity, commodity futures, structured products, and derivatives) for broker-dealer and individual clients. She has also assisted counsel on issues related to valuation, financial reporting, internal control, and disclosures in the context of internal and regulatory inquiries, including cross-border and multi-jurisdiction investigations.

In a number of restructuring and bankruptcy-related proceedings, Dr. Cao has consulted on matters involving solvency, business forecasts, contract disputes, risk management, credit rating and credit risk. She has also analyzed a range of issues such as corporate governance, deal process, valuation, and damages on matters related to corporate transactions such as M&A, hedge fund activism, and going-private transactions.

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Elaine Harwood heads the firm’s accounting practice. She consults to clients and works with experts on securities litigation, complex enforcement matters brought by the Securities and Exchange Commission (SEC) and Public Company Accounting Oversight Board (PCAOB), and corporate investigations. She is an expert on financial accounting, financial reporting, and auditing. Dr. Harwood has served for more than twenty years as a consultant and expert on a wide range of liability and damages issues. *Who’s Who Legal* recognizes Dr. Harwood as a leading forensic accountant in the legal investigations space.

Securities litigation: Dr. Harwood works with clients and experts in prominent securities class actions. Her experience includes analysis of loss causation and damages in disclosure cases for clients in a wide range of industries, including financial institutions, consumer products, communications, technology, and energy.

SEC and PCAOB enforcement: Dr. Harwood’s expertise includes all phases of SEC and PCAOB enforcement activity, from informal investigations through to trial or administrative hearings. Dr. Harwood has addressed allegations related to: adequacy of disclosures, alleged financial reporting fraud, appropriateness of audit procedures, including procedures performed by international affiliates of U.S. accounting firms, alleged violations of the Foreign Corrupt Practices Act (FCPA), and adverse consequential damages of regulatory sanctions.

Accounting and auditing: Dr. Harwood specializes in financial accounting, financial reporting, and auditing issues that arise in investigations, litigation, and enforcement actions. She is an authority on: U.S. Generally Accepted Accounting Principles (GAAP), PCAOB and American Institute of Certified Public Accountants (AICPA) auditing standards, internal control over financial reporting, International Financial Reporting Standards (IFRS), governmental accounting standards, and forensic accounting.

Research and presentations: Dr. Harwood has coauthored several articles and publications, including Cornerstone Research’s annual report on accounting class action filings and settlements. She speaks widely to legal and trade audiences on trends and new developments in litigation and regulatory enforcement, financial accounting and reporting, and auditing. She is a member of the advisory council of the SEC and the Financial Reporting Institute at the University of Southern California.

Before joining Cornerstone Research, Dr. Harwood was a professor at Boston College. She is a certified public accountant (CPA), is certified in financial forensics (CFF) by the AICPA, and has a Ph.D. in business administration with a concentration in accounting.