

# PARMALAT : European collective action

## Questions and Answers

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### 1. Why have European investors been excluded from the U.S. class action?

European investors who purchased their Parmalat securities outside of the U.S. have been excluded from the American class action **for jurisdictional reasons**. The Southern District Court of New York has found that the fraud did not sufficiently occur on the territory of the U.S. to justify its jurisdiction for claims brought by foreign claimants. For American investors or investors who purchased their securities in the U.S., the Court has retained jurisdiction over the claims brought against the defendants. The Court's decision was based exclusively on jurisdictional issues, as it had already decided at an earlier stage that the Lead Plaintiffs' Complaint adequately pleads a cause of action against these defendants for their participation in numerous schemes to defraud Parmalat investors. The Court's decision therefore has no impact on the merits of the case against the Parmalat defendants.

### 2. Have European investors been excluded from all pending actions in the U.S.? What is the impact on the CSFB and BNL settlements?

The Southern District Court of New York has ruled that Parmalat bondholders and shareholders who did not purchase their Parmalat securities in the U.S. are excluded from the U.S. class action with **respect to claims against** Citibank, Bank of America, Deloitte Touche (U.S. and International) and Grant Thornton (U.S. and International). The claim brought against New Parmalat can, for the time being, continue as well as the claims against certain other non-U.S. based parties. The Court's decision on jurisdiction also does not affect the settlement for a total amount of 50 million USD against CSFB and BNL. This settlement is open to both U.S. and non-U.S. investors.

### 3. What is the purpose of Deminor's action and what are the concrete goals pursued?

The purpose of Deminor's action is to recover a maximum amount of damages for the victims of the Parmalat fraud through a collective European action. The current status of the U.S. class action makes us conclude that there will be a very limited settlement for non-U.S. based investors in that action (the only settlement reached today open to European investors is the CSFB/BNL settlement for a total amount of 50 million USD against a total loss of approximately 8 billion USD!). Therefore, the only way for European investors to recover a reasonable amount of their losses will be to join a European collective action against all the Parmalat defendants. Deminor is coordinating such a European action on behalf of all interested investors. The efficacy of such an action strongly depends on Deminor's ability to represent a large group of both retail and institutional investors. Currently, Deminor already represents more than 4,000 retail bondholders and a limited core group of institutional investors.

Provided a large group of investors can be brought together, it is not excluded that a European based settlement can be found with all parties involved.

**4. What are the conditions to participate to this action?**

You must have purchased your Parmalat securities between January 5<sup>th</sup>, 1999 and December 18<sup>th</sup>, 2003. Moreover, you must not have filed as a civil party in the pending criminal action against the defendants mentioned under question 8.

**5. What commitment do I make by signing up to this action with Deminor? Are there any risks associated with joining this action?**

By signing up to our action, you appoint Deminor as your advisor and coordinator for the collective European Action. You do not enter into any legally binding commitment other than to provide the information and accomplish the formalities necessary for Deminor to defend your rights and to pay a variable fee upon recovery. Deminor only charges a variable fee of 20% on any amounts recovered. Deminor's variable fee is only due on any recovery you can make through a European action, not through the U.S. class action. No other (fixed) fees are due to us or to our lawyers for this action.

*Court expenses*

The losing party will have to pay court expenses, which traditionally are very low under Italian civil procedure.

There is also a risk that the losing party is also condemned to pay the adversary party's lawyers' fees. However, courts usually condemn the losing party to pay the winning party's lawyers' fees only when, from the outset, it should have been clear to the plaintiffs that the case was without merit. We believe this risk is very small in the present case, given the extent of the fraud, the U.S. court's clear opinion on the defendants' contribution to the fraud and the presence of various criminal actions against the same defendants.

**6. Do I keep control over any law suits that will be filed on my behalf?**

Yes, you will decide yourself on which action you will join. Deminor cannot file any actions on your behalf, without your explicit consent. For every law suit that you will participate to, we will request you to sign a power of attorney to the external legal counsels who will plead the cause on behalf of our clients. Without such POA, no action can be taken on your behalf.

**7. What are the possible legal actions available? What is the difference between a direct civil action and filing as civil party before the criminal court?**

Deminor believes, at this stage, that for jurisdictional reasons legal actions should best be brought before the Italian courts. There are two ways for victims of a fraud case to obtain damages in Italy: either the victim becomes “civil party” in the criminal court case, or the victim files its own direct civil action before a civil court.

Back in 2004, a criminal investigation was opened against the auditors and the banks by criminal prosecutors in Milan and Parma. The banks involved are Deutsche Bank, UBS, Morgan Stanley, Citigroup and Bank of America. They were indicted earlier this year and the criminal trial has started at the end of January, 2008. It is important to note that the banks themselves, and not only the physical persons who were involved in the transactions, were indicted. In Italy, corporations can be held liable for criminal offences.

**In the first case (filing as “civil party”)**, the criminal court can award damages after having convicted the defendants and to the extent there is a causal link between the criminal offence and the damage suffered. The victims who can benefit from such award of damages are those who filed a claim with the criminal court (“filing as civil party in the criminal court”). The victim has to file as civil party at the latest when the criminal trial starts.

**In the second case (filing a direct “civil action”)**, the civil court can award damages for the losses suffered as a result of the criminal offence, or as a result of any other wrongful conduct including negligence (that is not necessarily qualified as a criminal offence). There must also be a causal link between the wrongful conduct and the damage suffered, but the scope of the wrongful conduct that can be taken into account is larger. To be awarded damages, a party has to file a court case within the deadline set by law (statute of limitations) or has to reach an out of court settlement.

In general, when there is a case involving both fraudulent acts and other wrongful conduct such as inexcusable negligence, parties will prefer to claim damages from a civil court, since there is wider scope of acts that can be invoked as grounds for liability and therefore damages are likely to be bigger.

In the specific case, however, investors are not allowed to file as civil party anymore in the proceeding pending before the criminal Court of Milan, because the trial has started.

We therefore recommend institutions to file their own direct civil action before a civil court. We are offering the possibility to institutional investors to be part of a group action before the civil court of Milan **until June 30<sup>th</sup>, 2008**.

**8. Who are the defendants in our action?**

The targeted defendants are: Citibank, Bank of America, Deloitte Touche (U.S. and International), Grant Thornton (U.S. and International), UBS, Nextra, Morgan Stanley and Deutsche Bank.

**9. What type of recovery can be expected from possible European legal actions?**

It is extremely difficult to predict the rate of recovery, if any, that we can achieve with this action. There are very few legal precedents in Europe for this type of case, and the outcome will be dependent on many factors such as the strength of the case, the court's composition, the number of plaintiffs, the speed of the procedure, the amounts at stake, the defendants' willingness to come to a settlement, etc. We believe we have a strong cause of action against the parties involved and that therefore we should be able to obtain a recovery for our clients in excess of what European investors can get in the U.S.

**10. Will Deminor keep me regularly informed about the development of the action?**

We will keep our clients informed through regular newsletters, which will be sent through our web site. There will be a separate section on our web site which will be reserved for our Parmalat clients.

**11. What are the costs associated with these actions?**

There are no fixed costs associated with this action, except for the cost of execution of the Powers of Attorney that you will have to give to our counsels in case of active participation to a law suit. As mentioned above, the Court can condemn the losing party to pay Court expenses and, in some cases, the adverse party's attorney fees.

**12. Can I "sit and wait" until there is an award of damages or a settlement?**

There is no class action available under European law that allows you to benefit from a settlement once it is reached. Therefore, if you want to benefit from a European action, you will have to be part of it. It is not excluded, however, that if there is going to be settlement, the defendants will want to extend the settlement to all Parmalat investors. However, such outcome is rather rare and we cannot guarantee that it can be achieved in the present case. Please note that there are strict legal deadlines (statute of limitation) within which claims have to be filed. Beyond this deadline, no claims can be filed any longer. Deminor's action is opened to investors until **June 30, 2008**.

**13. What are the concrete steps involved if I want to become part of any of the pending actions?**

To participate to our action, we kindly request you to:

- contact us at your earliest convenience or register through our “active cases site”;
- sign an agreement with Deminor which we will send you at your request;
- sign a power of attorney to our counsels; we will send you the documents concerned as soon as we receive all relevant information from you;
- send us all transactions data and relevant documentation regarding your investment in Parmalat.

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