



RETHINKING RISK: INSIDE CLASS ACTIONS

A survey on Corporate Australia and the risks keeping them up at night

To understand the experiences and concerns of corporate Australia, we conducted a survey of the country's leading organisations for their views on class action risk and mitigation plans.

Our survey participants:

Director: 45%
Senior lawyer: 23%
General counsel: 15%
Company secretary: 5%
Other: 12%

We asked participants whether the risk of a class action is periodically assessed at senior levels within their organisation?

Class action risk discussed alongside "topic" risk, eg cyber, employment, ESG.



Class action risk periodically assessed at senior levels of organisation as part of overall risk assessments



No specific assessment



We assess the risk of a class action when it arises



Highlights include:

Level of concern

- 68% said their level of concern has increased in the past five years
- 55% are concerned about facing a class action and 18% are very concerned

Given the number of plaintiff law firms and litigation funders in the market, the broad range of class action subject matter and sectors that are exposed to risk and the relatively steady rate of class action filings over recent years this level of concern is unsurprising.

The main concerns

- 53% of participants identified reputational impact as the most concerning
- 34% ranked financial impact as their second highest concern

Unfortunately, negative public perception can develop without any regard to the merits of the case, particularly where serious corporate misconduct or regulatory non-compliance is alleged so this concern is understandable.

The major risks impacting organisations

We asked participants to evaluate various risks from two distinct angles: the operational risk posed to their corporations and the potential for these risks to trigger class action lawsuits. There was a unanimous consensus on cyber, governance and environmental risks.

Current legal and commercial risks, now and then:

Now



Cyber



Financial



Social and governance

Past 5 Years



Market risks



Consumer liability or disclosure



Pandemic related risks

How are our participants managing class action risk?



New board members with broader experiences

Ensuring broad experiences in board composition



Specialised class actions training



Significantly heightened focus on safe data management and cyber security



Board/senior management accountability



Using expertise of external advisers and service providers where appropriate



Strategic planning to diversify financials

Class action health check:

Steps you can take now



1 Stay alert to current trends



2 Corporate governance



3 Compliance programs



4 Proactive risk management