

Joint Press Release WFI and BETTER FINANCE

Beirut, 28 June 2019

The Volkswagen DieselGate Scandal

Time for a negotiated settlement for European investors:

- VW has been dragging its feet over European claims
- The company has paid out € 30 billion in the US
- This approach is unfair and unjust to European investors
- Delaying tactics have not worked; legal pressure is mounting
- The two leading investor protection associations call for a negotiated settlement

[The Volkswagen Investors Claim Foundation](#) (“Stichting”) was established under Dutch law at the end of 2015 to provide a tool for investors in the Volkswagen Group who had suffered damage from the company’s long-standing Diesel fraud, helping them to recover at least part of their losses.

In order to manage the delicate situation of investors with an interest – in the case of shareholders a proprietary interest – in the long-term prosperity of the company, who have been harmed by the actions of that same company’s board and management, the Foundation has always opted for a negotiated settlement solution as a means of balancing these conflicting interests. The settlement model of Dutch law offered itself as the ideal instrument in Europe to achieve a balanced outcome through negotiation, while at the same time avoiding costly and lengthy litigation.

The World Federation of Investors and BETTER FINANCE, the two leading investor protection associations, have consistently supported this approach, and have reconfirmed their commitment on the occasion of their joint International Conference in Beirut in June.

Regrettably, Volkswagen has so far categorically refused to enter into settlement talks with the Foundation on investor claims in Europe – and has adopted the same stance with other legitimate claims generated in Europe, including the value loss of vehicles equipped with the unlawful emission control devices. This despite having accepted responsibility for these same matters in the United States, and despite having already agreed settlements there to the tune of \$30bn.

The Foundation has repeatedly castigated Volkswagen’s policy towards European claimants as inequitable, unjust and a grave failure of moral responsibility. The policy of denial has prolonged the opprobrium of fraud and moral failure so manifest in the history of the Diesel fraud.

Volkswagen's board of directors has manifestly been playing for time, relying on the short prescription times which exist in Germany and other European countries and hoping that the claims would thus become ineffective. In the meantime, however, certain legal decisions have increased the pressure on VW. The prosecutor of Braunschweig has forced the company to pay penalties of € 1 billion on the grounds of unlawful enrichment by collective fraudulent behavior. VW has accepted the fine and, by doing so, has admitted its responsibility. In October of 2018, the higher court of Stuttgart ruled that Porsche must compensate investor claimants for the reduction in market value of their holdings because of the company's violation of information obligation under the German Capital Market law. This sentence is not yet final, but highly indicative. It heightens the probability that investor lawsuits will be successful in the courts. In addition, a number of VW executives are currently under criminal charges for prior knowledge and fraud.

The strategic situation of the Foundation and its clients has markedly improved in recent months. It has become clear that the company's policy of denial and prevarication has not had the expected deterrent effect.

Facing the imminent prospect of losing their claims through prescription on the 31st of December of 2018, the registered clients of the Foundation have commenced legal proceedings. Backed by DSW, Germany's biggest investor representation, the law firm Nieding & Barth, Hausfeld, and the international litigation funder Fortress and Financial Right, more than 1,000 individual claimants and 150 institutional investors have joined this action. These represent estimated claims of more than Eur 1,2 billion which are thus shielded from prescription. The new funder has enabled investors to sign on without charge, against a percentage deduction from the eventual settlement. Considerable initial funding had already been provided by the New York law firm Labaton Sucharow.

The lawsuits sponsored by the Foundation are only one part of the financial threat to VW. More than 1,500 other shareholders have registered a form of collective lawsuit in the two German "KapMuG" proceedings. There are also the claims of European bondholders and of European car owners. The figures also do not take account of the possible legal and financial consequences of executive fraud, if proven.

The VW Group, in its Annual Financial Report for 2018, states that the financial risk (Eventualverbindlichkeiten) from pending judicial procedures concerning customers, dealers, employees and investors amounts to € 5,4 bn., out of which 3,4 bn. are investor claims; this is reflected in the special reserve the company has set aside. External sources have however estimated that the total financial risk to VW, if all these procedures come to fruition over the years, is substantially higher and may affect the long-term financial stability of the group.

Given the current judicial situation, the VW management must now proceed on the assumption that it is threatened by billions of potential additional expenses, years of judicial and lawyers' expenses, judgments, and fines.

In the Foundation's view, supported by WFI and BETTER FINANCE, this situation offers an even stronger argument that initiation of forward-looking settlement negotiation is timely and beneficial for all parties.

"It is now more than ever clear that it is in the best interest of both parties to negotiate a fair settlement for the European VW investors harmed by DieselGate." Said Henning Wegener, Chair of the Foundation.

BETTER FINANCE

BETTER FINANCE, the European Federation of Investors and Financial Services Users, is the public interest non-governmental organisation advocating and defending the interests of European citizens as financial services users at the European level to lawmakers and the public in order to promote research, information and training on investments, savings and personal finances. It is the one and only European level organisation solely dedicated to the representation of individual investors, savers and other financial services users.

Since the BETTER FINANCE constituency includes individual and small shareholders, fund and retail investors, savers, pension fund participants, life insurance policy holders, borrowers, and other stakeholders who are independent from the financial industry, it has the best interests of all European citizens at heart. Its activities are supported by the European Union since 2012.

Media contact: Arnaud Houdmont | houdmont@betterfinance.eu | +32 (0)2 514 37 77

The World Federation of Investors

The World Federation of Investors is an independent, not-for-profit organization whose members are primarily national shareholders' associations. WFI was formed to promote investor education and shareholder advocacy.

WFI helps national shareholders associations and investor advocacy groups better serve their members. WFI offers its members the benefits of enhanced information, financial education and better investment tools and techniques.

Media contact: Mark Northway | mark.northway@sharesoc.org | +44 7770794350