UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SJUNDE AP-FONDEN, individually and on behalf of all others similarly situated, Plaintiff, v. THE GOLDMAN SACHS GROUP, INC., et al., Defendants.	Case No. 18-cv-12084 (VSB) (KHP)

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PLAINTIFF'S MOTION FOR CLASS CERTIFICATION

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I. PRELIMINARY STATEMENT

This action arises out of Defendants'[1] material misrepresentations and omissions concerning their role in one of the largest financial frauds in history, effectuated through 1Malaysia Development Berhad ("1MDB"), the Malaysian state investment fund, by its notorious operator, Low Taek Jho ("Low"). Lead Plaintiff Sjunde AP-Fonden ("AP7") seeks to certify a class of all persons and entities that purchased or otherwise acquired Goldman's common stock between October 29, 2014 and November 8, 2018, inclusive (the "Class Period"), and were damaged thereby (the "Class").[2] "Class actions are generally well-suited to securities fraud cases," *In re Deutsche Telekom AG Sec. Litig.*, 229 F. Supp. 2d 277, 282 (S.D.N.Y. 2002), and this case is no exception. The Class satisfies all the requirements for certification under Federal Rule of Civil Procedure ("Rule") 23(a) and (b)(3).

The Class is comprised of thousands of investors, making joinder impracticable. This action involves numerous common questions of law and fact, including whether Defendants misrepresented or omitted material facts during the Class Period, whether they acted with scienter, and whether their fraudulent acts caused damages to the Class. AP7's claims are typical because, like all other Class members, AP7 seeks recovery for losses arising from Defendants' fraud. AP7 is an adequate representative of the Class because its interests do not conflict with other Class

[1] "Defendants" are The Goldman Sachs Group, Inc. ("Goldman"), Lloyd C. Blankfein ("Blankfein"), and Gary D. Cohn ("Cohn"). Unless otherwise stated, all internal quotations and citations are omitted and all emphasis is added; citations to "¶ __" refer to paragraphs of the Third Amended Class Action Complaint (ECF 272) (the "Complaint" or "TAC"); citations to "Ex. __" refer to the exhibits to the Declaration of Andrew L. Zivitz in Support of Plaintiff's Motion for Class Certification; and capitalized terms have the definitions ascribed to them in the Complaint.

[2] Excluded from the Class are: (i) Defendants; (ii) Goldman's subsidiaries and affiliates; (iii) any officer, director, or controlling person of Goldman, and members of the immediate families of such persons; (iv) any entity in which any Defendant has a controlling interest; (v) Defendants' directors' and officers' liability insurance carriers, and any affiliates or subsidiaries thereof; and (vi) the legal representatives, heirs, successors, and assigns of any excluded party.

members' interests, and along with Counsel, it has prosecuted—and will continue to prosecute—this action vigorously on behalf of the Class. Additionally, AP7's chosen counsel are highly-experienced in prosecuting securities class actions against financial institutions like Goldman.

Certification under Rule 23(b)(3) is appropriate because common questions predominate over any individual questions. The elements of AP7's claims—including falsity, materiality, scienter, and loss causation—are issues that affect all Class members equally and are subject to common proof. The same is true for the element of reliance, as the "fraud-on-the-market" presumption of reliance applies. During the Class Period, Goldman common stock traded on the New York Stock Exchange ("NYSE"), which "courts presume to be an efficient market." *Hawaii Structural Ironworkers Pension Tr. Fund, Inc. v. AMC Ent. Holdings, Inc.*, 338 F.R.D. 205, 217 (S.D.N.Y. 2021). Moreover, AP7's expert, Dr. Joseph R. Mason, has concluded that the market for Goldman common stock was efficient throughout the Class Period, determining that each market efficiency factor set forth in *Cammer v. Bloom*, 711 F. Supp. 1264 (D.N.J. 1989) and *Krogman v. Sterritt*, 202 F.R.D. 467, 477-78 (N.D. Tex. 2001), supports a finding of market efficiency. Ex. 1 (the "Mason Rpt.").

To the extent Defendants attempt to rebut the fraud-on-the-market presumption by claiming a lack of price impact, such arguments are foreclosed by the evidentiary record. Each of the 1MDB Statements (defined below) [redacted], and contemporaneous market commentary demonstrates that the 1MDB Statements were understood and relied upon as denials of any wrongdoing by Goldman or its senior executives, including Blankfein. Upon the revelation that Blankfein met with Low in 2013, Goldman's stock price declined in a statistically significant manner on November 9 and 12, 2018, and media reports

attributed the decline to this disclosure. Moreover, market commentary following the disclosure, which revealed to investors that Goldman and its senior management were complicit in the 1MDB fraud, cast doubt upon Defendants' prior denials of misconduct involving 1MDB. These facts overwhelmingly demonstrate price impact.

Common issues concerning damages likewise predominate. Dr. Mason has proposed a method to calculate Class members' damages that has been repeatedly endorsed in this Circuit, is consistent with AP7's theory of liability, and uses common evidence to measure damages on a classwide basis. Finally, the class action device is the superior method for adjudicating this action, as it would be inefficient for each Class member to litigate separate actions.

For these reasons, AP7 requests that the Court grant its Motion and certify the Class.

II. STATEMENT OF FACTS

A. The 1MDB Fraud

As alleged in the TAC, Low and his co-conspirators looted billions of dollars from the 1MDB bond offerings underwritten by Goldman in 2012 and 2013 (Projects Magnolia, Maximus and Catalyze). ¶¶ 189-91, 206-07, 239-41. Low conspired to pay bribes with Goldman Partners Tim Leissner and Andrea Vella, and Managing Director Roger Ng, while other Goldman executives facilitated this fraud by disregarding evidence of Low's involvement and countless other red flags of corruption. ¶¶ 148-53, 156-88, 193-204, 215-39. During this period, Goldman continually courted Low—a well-known corruption risk (¶¶ 119-21, 139-47)—most notably through Blankfein's meetings with Low in 2009, 2012 and 2013. ¶¶ 124-28, 213-14, 250-53. Goldman also worked with Low on other transactions, including the 2013 Coastal Energy deal. ¶¶ 256-66. Goldman earned fees of nearly $600 million from its work for 1MDB, with the support of Goldman's most senior executives. ¶¶ 177, 186-88, 205-09, 239, 242.

On October 22, 2020, Goldman entered into a Deferred Prosecution Agreement ("DPA")

with the U.S. Department of Justice in which Goldman admitted that it conspired to violate the Foreign Corrupt Practices Act of 1977, 15 U.S.C. §§ 78dd-1, *et seq*., in connection with the 1MDB bond transactions and its other dealings with Low. Ex. 2 ¶ 1. Goldman paid $2.9 billion in fines and disgorgement to the DOJ—the largest FCPA fine in history—plus an additional $1.7 billion in fines and disgorgement to settle claims by other regulators. *Id.* at 6. By stipulation, "the admissions contained in the [DPA] and accompanying Statement of Facts ('SOF') . . . are admissible at trial in this litigation as party admissions." Ex. 3. In the DPA, Goldman admitted:

- Low "worked as an intermediary in relation to 1MDB"; "Leissner, Ng, [redacted][3] ***and other Goldman employees*** worked with Low" on the 1MDB deals; Goldman's control functions "were on notice that [Low] was involved in the [1MDB] transactions"; and "Leissner's electronic communications" included "multiple messages linking Low to . . . the bond deal[s]." Ex. 2, SOF ¶¶ 21, 25, 32, 47.

- Leissner, Ng and [redacted] knew that Low intended "to pay bribes." *Id.* ¶¶ 38, 48. Immediately after each deal closed, Low and his co-conspirators misappropriated $577 million, $790 million, and $1.4 billion of the proceeds, respectively, with Leissner personally "direct[ing] follow-on transfers." *Id.* ¶¶ 50-52, 56-58, 64.

- Goldman ignored "significant red flags raised during the due diligence process and afterward," including "1MDB raising large sums of money with no identified use of proceeds." *Id.* ¶¶ 25, 55, 62. Goldman also "fail[ed] to verify [1MDB's] use of past bond proceeds," "failed to investigate" red flags related to "Low's involvement in the deals and the possible payment of bribes," and failed "to perform an internal review of its role in the bond deals ***despite the clear implication that the deals had involved criminal wrongdoing***." *Id.* ¶¶ 55, 62, 72-74.

- Low was "an active participant" in the [redacted] deal, but "arranged for another entity to become Goldman's putative client" after his involvement was flagged by Goldman's control functions. *Id.* ¶ 78. Further, "Low's monetary contribution to this deal involved funds misappropriated from the bond offerings." *Id.* ¶ 24 n.1.

- On at least three occasions between 2009 and 2013, "senior executives at Goldman," [redacted], met with Low. *Id.* ¶ 79.

[redacted]

[3] [redacted]

[redacted]

[redacted]

[redacted]

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4 [redacted]

[redacted]

[redacted]

[redacted] by disregarding the "clear implication that the deals had involved criminal wrongdoing." Ex. 2, SOF ¶ 72.

B. The 1MDB Statements

During the Class Period, as media scrutiny of 1MDB and Low intensified, [redacted]

[redacted] In fact, Goldman's October 29, 2014 statements (¶ 336) [redacted]

Against this backdrop, Defendants made a series of materially false or misleading statements denying Goldman's complicity in the 1MDB fraud (the "1MDB Statements"). These include Goldman's: (i) October 29, 2014 statement claiming that "***no fees or commissions were paid by 1MDB or Goldman Sachs to external third parties***" in the 1MDB bond deals; (ii) July 21, 2015, June 22, 2018, and July 30, 2018 statements defending Goldman's fees in the bond deals, (iii) December 22, 2016 statement that Goldman had "***found no evidence showing any involvement by Jho Low in the 1MDB bond transactions***," (iv) statements between July 20, 2016 and August 7, 2018 that Goldman "***had no visibility into whether some of those funds [raised in the 1MDB bond deals] may have been subsequently diverted to other purposes***," (v) June 13, 2017 statement that "[n]either Jho Low, Jynwel or SRG [Low entities] were a client of Goldman in connection with the Coastal Energy acquisition"; and (vi) Blankfein's statement on November 1, 2018 claiming he was "not aware" of "red flags on [1MDB] beforehand." ¶¶ 336-64. The Court found each of these statements actionable. ECF 102 at 19-25; ECF 270 at 3-4.[5]

[5] The Court also found statements concerning Goldman's Business Principles actionable. ECF 102 at 15-16. In light of the Second Circuit's decision in *Arkansas Teacher Retirement System v.*

Each of the 1MDB Statements [redacted][6] and denied that Goldman or its executives were complicit in the 1MDB fraud. *See* ECF 102 at 40 (Judge Broderick describing "Goldman's repeated statements during the Class Period" as "downplaying its knowledge of, and role in, the 1MDB scandal"); *id.* at 36 (Goldman's statements "downplayed not only [its] own relationship with Low, but Low's connection to 1MDB"); ECF 270 at 2-3 (Goldman's statements concealed "the nature of Goldman's interactions with 1MDB and knowledge of any corruption associated with the fund"). Market commentary during the Class Period demonstrates that investors understood the 1MDB Statements as denials of wrongdoing. *See* Ex. 52 (12/22/2016 WSJ report: "***Goldman has consistently said it did nothing wrong and had no way of knowing there might be fraud surrounding 1MDB***. The bank has said its main role was raising money it thought would be used for the stated purposes. 'We have found no evidence showing any involvement by Jho Low in the 1MDB bond transactions,' the firm said."); Ex. 53 (6/8/2018 *Reuters* report: "***Goldman has always maintained that it did nothing wrong*** and that it had no visibility into whether some of the funds raised may have been subsequently diverted to other purposes."); Ex. 54 (8/7/2018 *New York Times* ("NYT") report: "***Goldman has repeatedly played down its role in the 1MDB scandal***, saying it was unaware of how money from the fund was being used."). [redacted]

Goldman Sachs Grp., Inc., 77 F.4th 74 (2d Cir. 2023) ("*ATRS IV*"), AP7 does not seek certification with respect to these statements. *See* ¶¶ 367-69.

[6] [redacted] Ex. 51 at 23-24 (Blankfein's November 1, 2018 statement made in response to question from interviewer).

[redacted][7]

In 2018, as evidence surfaced implicating Leissner and Ng in the 1MDB fraud, Goldman continued to deny its wrongdoing, claiming that only those two Goldman bankers were responsible. [redacted] These efforts culminated in Blankfein's statements on November 1, 2018, in which he claimed he was "not aware" of "red flags on [1MDB] beforehand" and that the scandal occurred because "one of our people lied to us and evaded our systems and our controls." Ex. 51 at 23-24. As with Goldman's consistent stream of prior denials, media reports parroted these statements. *See* Ex. 61 (11/2/2018 *Bloomberg* report that Blankfein said "he didn't know of senior managers missing red flags in the 1MDB dealings.").

The market's reliance on Goldman's statements denying any wrongdoing in connection with 1MDB continued until the final day of the Class Period. On November 8, 2018, media reports identified Blankfein as the unnamed executive referenced in court filings who met with Low in 2009, but continued to repeat Defendants' denials. Reporting on the 2009 meeting, *Bloomberg* stated that "[t]he bank has said it believed the proceeds of debt sales it underwrote were for

[7] [redacted]

development projects and that Leissner withheld information from the firm," and that Blankfein said "he's not aware of senior managers missing red flags in the 1MDB dealings. Instead, he said, the matter was an issue of a few employees dodging bank controls and lying about it." Ex. 62. Similarly, the *Financial Times* ("FT") repeated Goldman's statements that "it was duped by some of its Asia-based bankers—two of whom are facing criminal charges—and had no idea that Mr. Low was operating in the shadows of deals to raise $6.5bn of debt for . . . 1MDB." Ex. 63.

C. The November 2018 Corrective Disclosure

Defendants' false narrative that they were not complicit in the 1MDB fraud began to unravel beginning after-market hours on November 8, 2018, when the FT reported that "[p]rosecutors believe that Mr. Low met on a second occasion with a senior Goldman executive in 2013," and that "[a] person briefed on the matter said that the unnamed executive at the 2013 meeting . . . was Mr. Blankfein." Ex. 64; ¶ 374. The FT cited Defendants' prior denials, stating that "Goldman has always maintained that it did not know how the proceeds of the bond offering were spent," and described the bank's "carefully-choreographed strategy to paint Goldman as a victim of Mr. Leissner's and Mr. Ng's alleged criminality." *Id.* However, unlike prior reports, the FT now concluded that Blankfein's meeting "***could undermine this 'rogue employee' narrative***." *Id.* On November 9, 2018, the WSJ revealed that Blankfein's 2013 meeting with Low took place "***after*** the Wall Street bank's compliance department had raised multiple concerns about the financier's background and said the bank shouldn't do business with him." Ex. 65; ¶ 375. The WSJ further reported that the 2013 meeting "included discussions of 1MDB." Ex. 65. As with the FT report, the WSJ connected the revelation about Blankfein's 2013 meeting to Defendants' prior denials, stating that "[t]he bank has said it couldn't have known what would happen to the money it helped raise," and that "Mr. Blankfein laid the blame on rogue employees." *Id.* Following this news, Goldman's stock price declined by 3.89%. ¶ 376.

Investors continued to react to the Blankfein disclosure on the next trading day (November 12, 2018), as reflected in the continued stock price decline of 7.46%, and numerous reports attributing the decline to the Blankfein news. ¶¶ 376-77. For example, on November 12, 2018, *Barron's* reported that "[i]nvestors seem to be growing more worried about the potential fallout from the multibillion-dollar 1MDB fraud scandal on Goldman . . . , driving its shares down 11% over the last two sessions." Ex. 66. *Barron's* again cited Defendants' prior denials when discussing the two-day decline. *Id.* ("Goldman Sachs has denied any wrongdoing," while "Blankfein said that the former Goldman bankers who had been charged 'evaded our safeguards'"). Similarly, *Dow Jones* reported that "shares of Goldman fell by more than 7% [on November 12], the biggest loss in seven years, after reports late last week that . . . Blankfein was present at meetings [with] Jho Low." Ex. 67. The report also observed that the stock drop resulted from investors now questioning Defendants' prior denials, stating that "***[i]nvestors fear that the U.S. Justice Department will build a case showing that the investment bank was complicit in wrongdoing in the case***." *Id.*

Market commentary issued in the wake of the news of Blankfein's 2013 meeting with Low openly questioned Defendants' denials of 1MDB-related wrongdoing, while highlighting Goldman's legal and regulatory exposure:

- **11/13/2018 FT**: "***[T]he bank's attempt to paint Mr. Leissner as a rogue agent has been undercut*** by the revelation that Lloyd Blankfein, former chief executive and current chairman, attended a meeting with Mr. Low on two occasions." Ex. 68.

- **11/15/2018 NYT**: Based on reports "that Mr. Blankfein met with the former Malaysian prime minister Najib Razak, Mr. Low and Mr. Leissner," the NYT concluded that "***the Wall Street firm seems unlikely to be able to slough off its role in the looting of a multibillion-dollar Malaysian government investment fund as the work of a few miscreants***," noting that "Goldman's shares are down nearly 13 percent since Thursday's [November 8, 2018] close ***because of concern over whether the firm's leaders might be dragged into the case***." Ex. 69.

- **11/16/2018 *Barron's***: "Investors initially appeared to shrug off the charges [against Leissner]. But Goldman's stock tumbled last week when it was reported that Blankfein met with Low, Leissner, and [Najib] in 2009 and 2013. The bank's shares are down

more than 12% since the news about Blankfein." Ex. 70. Citing Goldman's denials, *Barron's* asked: "If Low was so important to Leissner's relationships with 1MDB and the former prime minister that he brought Blankfein along to meetings, ***did the bank seriously question whether it could do business with the Malaysian fund without exposing themselves to risks it knew Low posed?***" *Id.*

- **11/21/2018 *Barron's***: News that Blankfein "was in meetings with Jho Low . . . has ***spooked investors that the scandal may have broader legal and financial consequences***." Ex. 71.

As discussed below, the foregoing evidence demonstrates that the 1MDB Statements impacted Goldman's stock price. *See infra* at 23-27; Mason Rpt. ¶¶ 98-128.

III. ARGUMENT

To certify the Class, AP7 must establish that the requirements of Rule 23(a)—numerosity, commonality, typicality, and adequacy of representation—and at least one subsection of Rule 23(b) are satisfied. *See Amgen Inc. v. Conn. Ret. Plans & Tr. Funds*, 568 U.S. 455, 460 (2013). Actions, like this one, "alleging violations of § 10(b) of the Exchange Act are especially amenable to class certification," and "[i]n light of the importance of the class action device in securities fraud suits," the Rule 23 "factors are to be construed liberally." *In re Virtus Inv. Partners, Inc. Sec. Litig.*, 2017 WL 2062985, at *2 (S.D.N.Y. May 15, 2017). Any "doubts concerning the propriety of class certification should be resolved in favor of class certification." *In re J.P. Morgan Stable Value Fund ERISA Litig.,* 2017 WL 1273963, at *5 (S.D.N.Y. Mar. 31, 2017) (Broderick, J.).

Class certification is appropriate where, as here, each requirement of Rule 23 is satisfied by a preponderance of the evidence. *See In re U.S. Foodservice Inc. Pricing Litig.*, 729 F.3d 108, 117 (2d Cir. 2013). The inquiry at this stage is not whether AP7 will ultimately prevail on the merits, but "whether the requirements of Rule 23 are met." *Gruber v. Gilbertson*, 2019 WL 4439415, at *1 (S.D.N.Y. Sept. 17, 2019). Thus, "[m]erits questions may be considered to the extent—but only to the extent—that they are relevant to determining whether the Rule 23 prerequisites for class certification are satisfied." *Amgen*, 568 U.S. at 466.

A. Rule 23(a) Is Satisfied

1. Numerosity Is Established

During the Class Period, Goldman's stock was heavily traded on the NYSE, with no less than 371 million shares of common stock outstanding every trading day, and an average weekly turnover of 3.8%. Mason Rpt. ¶¶ 41, 78. These facts establish numerosity. *See In re Bank of Am. Corp. Sec., Deriv., & Emp. Ret. Income Sec. Act (ERISA) Litig.*, 281 F.R.D. 134, 138 (S.D.N.Y. 2012); *McIntire v. China MediaExpress Holdings, Inc.*, 38 F. Supp. 3d 415, 423 (S.D.N.Y. 2014).

2. Commonality Is Established

The "commonality" requirement under Rule 23(a) is met if "there are questions of law or fact common to the class." Fed. R. Civ. P. 23(a)(2). "Even a single common question of law or fact may suffice to satisfy the commonality requirement." *Pub. Emps.' Ret. Sys. of Miss. v. Merrill Lynch & Co., Inc.*, 277 F.R.D. 97, 105 (S.D.N.Y. 2011). Here, the claims of all Class members arise out of the same misrepresentations and omissions by Defendants and are subject to common proof. Questions common to the Class include: (i) whether Defendants materially misrepresented and omitted facts; (ii) whether Defendants acted with scienter; (iii) whether the price of Goldman common stock was artificially inflated by Defendants' misrepresentations and omissions; and (iv) the proper methodology of measuring damages. Such issues are "susceptible to common answers because their resolution does not differ based on the identity of the plaintiff." *Wilson v. LSB Indus., Inc.*, 2018 WL 3913115, at *4 (S.D.N.Y. Aug. 13, 2018). Thus, commonality is satisfied.

3. Typicality Is Established

Typicality is satisfied when "the claims or defenses of the representative parties are typical of the claims or defenses of the class." Fed. R. Civ. P. 23(a)(3). To do this, AP7 must show that "each class member's claim arises from the same course of events and each class member makes similar legal arguments to prove the defendant's liability." *In re JPMorgan Chase & Co. Sec.*

Litig., 2015 WL 10433433, at *3 (S.D.N.Y. Sept. 29, 2015). This showing "is not demanding," *In re Deutsche Bank AG Sec. Litig.*, 328 F.R.D. 71, 80, n.16 (S.D.N.Y. 2018), and is easily met here.

Like all other members of the Class, AP7 purchased shares of Goldman common stock during the Class Period, while Defendants' misstatements created or maintained artificial inflation in Goldman's stock price, and was harmed when the truth concealed by Defendants' misrepresentations and omissions was publicly revealed. ECF 272-1. The proof necessary for AP7 and all other Class members to prevail on their respective claims is the same, which establishes typicality. *See Bank of Am.*, 281 F.R.D. at 139.

4. Adequacy Is Established

The "adequacy" prong of Rule 23(a) requires that the proposed class representatives "will fairly and adequately protect the interests of the class." Fed. R. Civ. P. 23(a)(4). Courts assess whether "plaintiff's interests are antagonistic to the interests of other members of the class" and whether "plaintiff's attorneys are qualified, experienced and able to conduct litigation." *Bank of Am.*, 281 F.R.D. at 139. Only a "fundamental" conflict of interest will defeat adequacy under Rule 23(a)(4). *Deutsche Bank*, 328 F.R.D. at 82.

AP7 purchased Goldman common stock during the Class Period based upon publicly-available information, and was injured by the same wrongful course of conduct that injured the Class. *See* ECF 272-1. As a result, AP7's interests are not antagonistic to the Class. AP7 also has demonstrated its commitment to participate in and supervise the prosecution of this action on behalf of the Class. It has kept itself informed of developments in the case, vigorously prosecuted it on behalf of all Class members, and will continue to do so.[8] These facts support a finding of

[8] Through Counsel, AP7 has, among other things: (i) investigated and filed the Second Amended Complaint and TAC; (ii) opposed Defendants' motion to dismiss; (iii) served and responded to discovery requests, including by collecting and producing documents and sitting for a Rule

adequacy. *See Lapin v. Goldman Sachs & Co.*, 254 F.R.D. 168, 177 (S.D.N.Y. 2008) (plaintiff was adequate class representative where it was "familiar with the facts and legal theories underlying the case, [] in regular contact with his lawyers, has met with them, has reviewed the complaint and other case documents, and understands that [it] is responsible for making decisions that impact the class and representing the class's best interests").

Additionally, as an institutional investor, AP7 is especially well-qualified to serve as Class Representative. *Yi Xiang v. Inovalon Holdings, Inc.*, 327 F.R.D. 510, 525 (S.D.N.Y. 2018). Moreover, AP7 is not subject to any unique defense. *See Spagnola v. Chubb Corp*., 264 F.R.D. 76, 94 (S.D.N.Y. 2010) (the question is "whether the defenses will become the focus of the litigation, thus overshadowing the primary claims, and prejudicing other class members").

Finally, AP7 has protected the interests of the Class by retaining Kessler Topaz Meltzer & Check, LLP ("KTMC") as proposed Class Counsel and Bernstein Litowitz Berger & Grossmann LLP ("BLBG") as proposed liaison counsel. KTMC is highly experienced, has a proven track record in litigating complex securities class actions before this Court, and will vigorously prosecute the claims of the proposed Class. BLBG has also been involved in numerous complex securities actions before this Court, and is amply qualified to serve as liaison counsel. Exs. 73 and 74 (firm resumes). Counsel's adequacy is further established by their work on this case to date. *See, e.g.*, *In re Facebook, Inc., IPO Sec. and Deriv. Litig.*, 312 F.R.D. 332, 345 (S.D.N.Y. 2015) (adequacy established where "[c]ounsel is highly qualified and has prosecuted this action

30(b)(6) deposition; (iv) analyzed extensive document discovery from Goldman and third parties, totaling over 247,000 documents and 1.9 million pages; (v) taken 32 depositions, including 10 depositions of witnesses outside the U.S.; (vi) participated in case management conferences; (vii) conferred on case developments and possible settlement discussions; and (viii) retained four experts. AP7 will continue to prosecute this action through expert discovery and trial. ECF 272-1.

vigorously"). Accordingly, AP7 satisfies the adequacy requirement of Rule 23(a)(4).[9]

B. Rule 23(b)(3) Is Satisfied

The proposed Class should be certified under Rule 23(b)(3) because, as discussed below, "questions of law or fact common to class members predominate over any questions affecting only individual members" and "a class action is superior to other available methods for fairly and efficiently adjudicating the controversy." Fed. R. Civ. P. 23(b)(3).

1. Predominance Is Established

"Predominance is a test readily met in certain cases alleging . . . securities fraud[.]" *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 625 (1997). This inquiry is satisfied where "*questions* of law or fact common to the class will 'predominate over any questions affecting only individual members' as the litigation progresses." *Amgen*, 568 U.S. at 467 (emphasis in original); *see Waggoner v. Barclays PLC*, 875 F.3d 79, 93 (2d Cir. 2017) (predominance satisfied where questions subject to "generalized proof . . . are more substantial than the issues subject only to individualized proof"); *In re Petrobras Sec. Litig.*, 862 F.3d 250, 268 (2d Cir. 2017) (predominance is a "comparative standard" that "does *not* require a plaintiff seeking class certification to prove that each element of her claim is susceptible to classwide proof," only that common issues "*predominate* over any questions affecting only individual [class] members") (emphasis and alterations in original).

Courts regularly hold that the falsity, scienter, materiality, and loss causation elements of a Section 10(b) claim are common to all class members. *See Amgen*, 568 U.S. at 467 ("materiality

[9] Though not a required showing under Rule 23, the proposed Class is also ascertainable, since it is defined by objective criteria—persons and entities that purchased or otherwise acquired Goldman common stock during the Class Period and were damaged thereby. *Pearlstein v. BlackBerry Ltd.*, 2021 WL 253453, at *13 (S.D.N.Y. Jan. 26, 2021) (class members can be "easily" ascertained "by references to investor records").

is a 'common questio[n]' for purposes of Rule 23(b)(3)") (alteration in original); *id.* at 475 ("loss causation and the falsity or misleading nature of the defendant's alleged statements or omissions are common questions"); *In re Pfizer Inc. Sec. Litig.*, 282 F.R.D. 38, 52 (S.D.N.Y. 2012) (same). Accordingly, whether common questions predominate often "turns on the element of reliance." *Erica P. John Fund, Inc. v. Halliburton Co.*, 563 U.S. 804, 810 (2011) ("*Halliburton I*"); *Strougo v. Barclays PLC*, 312 F.R.D. 307, 312 n.17 (S.D.N.Y. 2016), *aff'd sub nom. Waggoner*, 875 F.3d at 79 ("[r]eliance is typically the only ground on which to challenge predominance because section 10(b) claims will almost always arise from a common nucleus of facts"). As demonstrated below, AP7 and other Class members are entitled to a presumption of reliance under *Basic Inc. v. Levinson,* 485 U.S. 224 (1988) and *Halliburton Co. v. Erica P. John Fund, Inc.*, 573 U.S. 258 (2014) ("*Halliburton II*"), because their claims arise from Defendants' public material misrepresentations and omissions, and the market for Goldman's common stock was efficient at all relevant times. As such, predominance is satisfied.[10]

a. The Fraud-on-the-Market Presumption of Reliance Applies

The fraud-on-the-market presumption "satisf[ies] the reliance element of the Rule 10b-5 cause of action by invoking a presumption that a public, material misrepresentation will distort the price of stock traded in an efficient market, and that anyone who purchases the stock at the market price may be considered to have done so in reliance on the misrepresentation." *Halliburton II*, 573 U.S. at 283-84. To invoke the presumption, AP7 need only show that the security at issue traded in a "generally efficient market" at the class certification stage. *Id.* at 279. The burden to establish

[10] Common questions also predominate as to AP7's Section 20(a) claims because "the issue of control is susceptible to generalized proof." *In re SCOR Holding (Switzerland) AG Litig.*, 537 F. Supp. 2d 556, 572 n.21 (S.D.N.Y. 2008); *see also In re Beacon Assocs. Litig.*, 282 F.R.D. 315, 333 (S.D.N.Y. 2012) (finding common issues related to Section 20(a) claims predominate).

market efficiency is "not an onerous one." *Petrobras*, 862 F.3d at 278.

During the Class Period, Goldman common stock was listed and actively traded on the NYSE, which "courts presume to be an efficient market." *Hawaii Structural*, 338 F.R.D. at 217; *JPMorgan*, 2015 WL 10433433, at *7 ("a stock's listing on the [NYSE] is a strong indication that the market for the stock is efficient."). While the Second Circuit has not adopted a specific test to analyze market efficiency, courts consistently employ the five *Cammer* factors and the three additional *Krogman* factors. *See Petrobras*, 862 F.3d at 276. As demonstrated below, Dr. Mason's analyses of these factors confirm that Goldman stock traded in an efficient market throughout the Class Period, entitling AP7 to invoke the fraud-on-the-market presumption of reliance.

i. The *Cammer* Factors Support a Finding of Market Efficiency

Courts typically consider the following factors in assessing market efficiency: (i) a large weekly trading volume; (ii) significant securities analyst coverage; (iii) the existence of market makers and arbitrageurs in the security; (iv) the eligibility of the issuer to file an S-3 registration statement; and (v) a history of a cause-and-effect relationship between public information revealing unexpected corporate events or financial results and movement in the corporation's stock price. *See Cammer*, 711 F. Supp. at 1286-87. As Dr. Mason demonstrates, each of the five *Cammer* factors strongly supports a finding of market efficiency. Mason Rpt. ¶¶ 39-75.

Goldman Common Stock Had a High Weekly Trading Volume. "[A]verage weekly trading of 2% or more of the outstanding shares would justify a strong presumption that the market for the security is an efficient one; 1% would justify a substantial presumption." *Cammer*, 711 F. Supp. at 1293. During the Class Period, the average weekly trading volume of Goldman common stock was no less than ***3.8%*** of shares outstanding. Mason Rpt. ¶ 41. This supports a strong presumption that Goldman common stock traded in an efficient market. *Menaldi v. Och-Ziff Cap. Mgmt. Grp. LLC*, 328 F.R.D. 86, 95 (S.D.N.Y. 2018).

Goldman Common Stock Was Thoroughly Covered by Analysts. "*Cammer* recognizes that a stock covered by a 'significant number of analysts' is more likely to be efficient because such coverage implies that investment professionals are following the company and making buy/sell recommendations to investors." *Carpenters Pension Tr. Fund of St. Louis v. Barclays PLC*, 310 F.R.D. 69, 79 (S.D.N.Y. 2015). An average of at least 30 securities analysts from major financial institutions published reports on Goldman's securities during each quarter of the Class Period (Mason Rpt. ¶ 43), resulting in more than 850 individual Class Period analyst reports on Goldman. *Id.* ¶ 44 & n.66. This supports the conclusion that Goldman common stock traded in an efficient market during the Class Period. *See, e.g.*, *Villella v. Chem. & Mining Co. of Chile Inc*., 333 F.R.D. 39, 54 (S.D.N.Y. 2019) (coverage by 15 analyst firms supported finding of market efficiency); *In re Winstar Commc'ns Sec. Litig.*, 290 F.R.D. 437, 446 (S.D.N.Y. 2013) (coverage by at least three analyst firms supported market efficiency).

There Were Numerous Market Makers for Goldman Common Stock. "[M]arket makers and arbitrageurs . . . ensure completion of the market mechanism" and "react swiftly to company news and reported financial results by buying or selling stock and driving it to a changed price level." *Cammer*, 711 F. Supp. at 1286-87. The NYSE maintains a "designated market maker" system, ensuring that at least one entity acts as a market maker for NYSE-listed stocks. Mason Rpt. ¶ 48. Additionally, during the Class Period, at least 81% of Goldman common stock was owned by more than 2,000 institutional investors, who had the resources and information to act as arbitrageurs. *Id.* ¶¶ 51-52; *see In re Alstom SA Sec. Litig.*, 253 F.R.D. 266, 280 (S.D.N.Y. 2008) (institutional investors who held substantial portion of defendant's common stock "likely acted as arbitrageurs and facilitated the efficiency of the market.").

Goldman Was Eligible to File Form S-3 Registration Statements. A company is eligible

to file a Form S-3 registration statement if it has filed SEC reports for 12 straight months and possesses a float of at least $75 million, 17 C.F.R. § 239.13, which "indicates that the company is easily able to issue new securities." *Winstar*, 290 F.R.D. at 447. Goldman was S-3 eligible throughout the Class Period, further supporting market efficiency. Mason Rpt. ¶ 55.

Goldman's Stock Price Reacted to Unexpected News. "[A] plaintiff seeking to demonstrate market efficiency need not always present direct evidence of price impact through event studies." *Waggoner*, 875 F.3d at 97; *see Pirnik v. Fiat Chrysler Autos, N.V.*, 327 F.R.D. 38, 45, n.3 (S.D.N.Y. 2018) ("Plaintiffs easily satisfy the first four *Cammer* factors, the Court need not and does not analyze the fifth *Cammer* factor, which asks for direct evidence of price impact."). Nevertheless, Dr. Mason conducted an event study that demonstrates a causal connection between public releases of new company specific-information and the market price of Goldman common stock, Mason Rpt. ¶¶ 59-75, which satisfies *Cammer* factor five. *See Waggoner,* 875 F.3d at 94.

Dr. Mason's event study demonstrated that statistically significant abnormal returns on Release Days[11] during the Class Period were approximately seven times more likely to occur than on non-Release days—a difference that is itself statistically significant at the 95% confidence level. Mason Rpt. ¶¶ 72-74. Dr. Mason concluded that his analysis "directly supports a conclusion that Goldman's common stock traded in an efficient market during the Class Period in a manner that can be considered as having arisen from a cause and effect relationship." *Id.* ¶ 75.

ii. The *Krogman* Factors Support a Finding of Market Efficiency

Under *Krogman*, "[s]ubstantial market capitalization with a narrow bid-ask spread[ ] and a large public float . . . indicate that [a corporation's securities] trade[ ] in an efficient market such

[11] Dr. Mason evaluated changes in the price of Goldman common stock on days when Goldman released quarterly and annual financial results ("Release Days"). Mason Rpt. ¶¶ 59-62.

that the *Basic* presumption is appropriate." *JPMorgan*, 2015 WL 10433433, at *7 (first alteration supplied). Here, these considerations further support an inference of market efficiency. Goldman's market capitalization exceeded $57.4 billion throughout the Class Period. Mason Rpt. ¶ 78. Goldman stock was also included in the S&P 500 and the S&P 100 Indices, suggesting it was "among the largest publicly traded companies in the U.S. at the time." *Id.*; *see Carpenters Pension*, 310 F.R.D. at 81 ("The markets for companies with higher market capitalizations and shares with a smaller bid-ask spread are more likely to be efficient."). During the Class Period, Goldman's common stock float exceeded 87% of the shares outstanding. Mason Rpt. ¶ 79; *see Pearlstein*, 2021 WL 253453, at *16 ("average float of 84.4% of shares outstanding" supported a "finding of market efficiency"). Finally, the average daily bid-ask spread for Goldman stock during the Class Period was 0.02% of the stock price. Mason Rpt. ¶ 83; *see JPMorgan*, 2015 WL 10433433, at *7 (average bid-ask spread of 0.02% supported efficient market finding); *Strougo*, 312 F.R.D. at 317 ("The markets for companies with . . . smaller bid-ask spread are more likely to be efficient.").[12]

b. Defendants Cannot Rebut the *Basic* Presumption

Defendants cannot rebut the *Basic* presumption because they cannot show, by a preponderance of the evidence, that their misstatements had no price impact. *See Goldman Sachs Grp., Inc. v. Ark. Teacher Ret. Sys.*, 141 S. Ct. 1951, 1963 (2021) ("The Second Circuit correctly placed the burden of proving a lack of price impact on Goldman.").

On November 8-9, 2018, multiple news outlets reported that Blankfein, Goldman's CEO, had met with Low, the mastermind of the 1MDB corruption scheme, in 2013, ***after*** Goldman's

[12] When assessing market efficiency, some courts also consider "autocorrelation," *see, e.g.*, *Billhofer v. Flamel Techs., S.A.*, 281 F.R.D. 150, 160-62 (S.D.N.Y. 2012), which refers to an investor's ability to use previous stock price movements to predict future price movements. Dr. Mason analyzed this factor, and concluded that it supports a finding of market efficiency here. Mason Rpt. ¶¶ 84-87.

Compliance Department had repeatedly flagged Low as a major corruption risk. ¶¶ 374-75. Judge Broderick found this news was "highly material to the scope of Blankfein's and Goldman's connection to Low and the 1MDB scandal" which Defendants repeatedly "***downplayed***." ECF 102 at 36-37, 40 ("During the Class Period, Defendants . . . downplayed not only their own relationship with Low, but Low's connection to 1MDB"). In response to this news, Goldman's stock price declined in a statistically significant manner from the market-open on November 9 through the end of trading on November 12, 2018, and the financial press linked the stock drop to this news. Mason Rpt. ¶¶ 115-28; *see, e.g.*, Ex. 66 (11/12/2018 *Barron's* report that Goldman "shares [were] down 11% ***over the last two sessions*** . . . ***following reports that Lloyd Blankfein, the firm's current chairman and former CEO, had twice attended meetings with the figure at the center of the scandal, Jho Low***"). Defendants are thus unable to demonstrate "that the ***entire*** price decline . . . was due to something other than [the] alleged misstatements." *Ark. Teacher Ret. Sys. v. Goldman Sachs Grp., Inc.*, 955 F.3d 254, 270 (2d Cir. 2020), *rev'd on other grounds*, 141 S. Ct. 1951 (2021).

Under the "inflation-maintenance" theory, price impact is demonstrated by "the back-end price drop—what happens when the truth is finally disclosed—[which] operates as an indirect proxy for the front-end inflation, or the amount that the misrepresentation fraudulently propped up the stock price," i.e., "back-end price drop equals front-end inflation." *ATRS IV*, 77 F.4th at 80. And while that inference "starts to break down when there is a mismatch between the contents of the misrepresentation and the corrective disclosure," such as "when the earlier misrepresentation is ***generic*** (*e.g.*, 'we have faith in our business model') and the later corrective disclosure is specific (*e.g.*, 'our fourth quarter earnings did not meet expectations')," there is no such mismatch here. *Goldman*, 141 S. Ct. at 1961.

The 1MDB Statements were not "exceedingly generic statements" or mere "platitudes" about abstract business principles like the statements at issue in *ATRS IV*. 77 F.4th at 94-95. Quite the opposite, the 1MDB Statements [redacted] As Judge Broderick noted, these statements were promulgated by Goldman to deny its culpability in the 1MDB deals. ECF 102 at 40 (discussing "Goldman's repeated statements during the Class Period downplaying its knowledge of, and role in, the 1MDB scandal"). Indeed, prior to the November 2018 corrective disclosure, market commentators cited the fact that "***Goldman has repeatedly played down its role in the 1MDB scandal***," Ex. 54 (8/7/2018 NYT report); *supra* at 10, evidencing the "inflation-maintaining capacity" of the 1MDB Statements and demonstrating that "had the company spoken truthfully regarding [its involvement with Low and 1MDB] ***at an equally generic level***, the market would have reacted." *ATRS IV*, 77 F.4th at 98 (emphasis in original). *See* Mason Rpt. ¶¶ 98-114, 128.[13]

As for the back-end, the November 2018 disclosure of Blankfein's 2013 meeting with Low—which occurred "***after*** [Goldman's] compliance department had raised multiple concerns about [Low's] background and said that the bank shouldn't do business with him," ECF 102 at 36—revealed Goldman's connection to and complicity with Low and led analysts and market watchers to question Goldman's prior denials of wrongdoing and reevaluate Goldman's regulatory and reputational exposure. Mason Rpt. ¶¶ 115-25. For example, on November 16, 2018, after

[13] *ATRS IV* makes clear that this type of evidence is only required in circumstances where "there is a considerable gap in front-end-back-end genericness, as the district court found [there] . . . ***and*** [] the plaintiff claims, as plaintiffs claim[ed] [there], that a company's generic risk-disclosure was misleading by omission." 77 F.4th at 102. These circumstances are not present here. Nevertheless, the evidence that Plaintiff has developed forecloses any attempt by Defendants to prove a lack of piece impact by a preponderance of the evidence.

noting that "[Goldman's] shares are ***down more than 12% since the news about Blankfein***," *Barron's* cited Goldman's prior denials, stating that "[t]he bank ***denies*** knowing about Low's and Leissner's behavior," but questioned these denials in light of the November 2018 disclosure:

> The issue going forward is what questions Goldman—and Blankfein, now the firm's chairman—asked and when. If Low was so important to Leissner's relationships with 1MDB and the former prime minister that he brought Blankfein along to meetings, ***did the bank seriously question whether it could do business with the Malaysian fund without exposing themselves to risks it knew Low posed?***

Ex. 70. Thus, there is no front-end/back-end disconnect as in *ATRS IV*, where plaintiffs' case depended on a "generic risk-disclosure" alleged to be "misleading by omission." 77 F.4th at 102. Here, the 1MDB Statements, through which Defendants denied their culpability and connection to Low, match the disclosure of the Blankfein-Low meeting, which revealed that, in actuality, Goldman was culpable and complicit in Low's corruption. *See* Mason Rpt. ¶ 128 (concluding that "the alleged misrepresentations—each of which informed market participants that Goldman had no culpability with respect to 1MDB or Low and that Goldman was unaware of red flags or indicia of corruption associated with 1MDB or Low—were directly contradicted by the information in the November 2018 Corrective Disclosure.").

To the extent Defendants argue that the November 2018 corrective disclosure does not precisely match the content of each of the 1MDB Statements, such arguments should be rejected. As Judge Broderick held in rejecting Defendants' loss causation arguments, "[c]orrective disclosures need not 'expose[] the precise extent of [Defendants'] alleged fraud.'" ECF 102 at 36 (quoting *In re Vivendi, S.A. Sec. Litig.*, 838 F.3d 223, 262 (2d Cir. 2016)). And while price impact is a distinct analysis from loss causation, it too does not require a "precise match." *ATRS IV*, 77 F.4th at 98 ("We do not suggest that the inflation-maintenance theory requires a ***precise match***."). Defendants cannot carry their burden of demonstrating a complete lack of price impact based on

any purported mismatch given: (i) the highly specific nature of the 1MDB Statements and the November 2018 corrective disclosure; (ii) extensive market commentary, both pre- and post-disclosure, characterizing the 1MDB Statements as denials of Defendants' culpability; and (iii) post-disclosure commentary questioning these denials in light of the 2013 Blankfein meeting. *Supra* at 8-14; Mason Rpt. ¶¶ 126, 128; *cf*. *ATRS IV*, 77 F.4th at 94, 99, 104-05 (finding an absence of price impact where ***none*** of these facts were present).

For example, as this Court found, Goldman's December 22, 2016 statement that "[w]e have found no evidence showing any involvement by Jho Low in the 1MDB bond transactions" (¶ 346) was "***contradict[ed]***" by the "allegations that [Blankfein] met to discuss business with 1MDB several times"—***precisely*** what was revealed by the November 2018 disclosure. ECF 270 at 3 (citing ECF 102 at 19). The same is true of the other 1MDB Statements. As Judge Broderick held, the November 9, 2018 WSJ report "placed Blankfein's meeting with Low in context by ***noting his previous comments*** suggesting that he and senior officials were unaware of issues related to 1MDB, and that 1MDB was the fault of a handful of 'rogue employees.'" ECF 102 at 37. Similarly, the revelation that Blankfein met with Low, a known corruption risk, in 2013, and that this meeting "included discussions of 1MDB," Ex. 65, called into question Goldman's other denials about the 1MDB deals, including its claimed lack of "visibility" into the diversion of the bond proceeds and claims that Goldman's fees reflected only the risks it assumed in the deals. Once again, market commentary following the disclosure of the 2013 Blankfein meeting drew this connection. *See* Ex. 64 (11/8/2018 FT: "Goldman has always maintained that it did not know how the proceeds of the bond offerings were spent"); Ex. 65 (11/9/2018 WSJ: "[t]he bank has said it couldn't have known what would happen to the money it helped raise"); Ex. 70 (11/16/18 *Barron's*: "***did the bank seriously question whether it could do business with the Malaysian fund without exposing***

themselves to risks it knew Low posed?"). Such evidence, which "suggests that the market came to th[e] realization" that Defendants' denials of wrongdoing in the 1MDB Statements were false, forecloses a finding of a lack of price impact. *ATRS IV*, 77 F.4th at 104.

c. Damages Are Measurable by a Common Methodology

AP7's ability to establish Class members' damages using a common methodology further demonstrates predominance. *See Waggoner*, 875 F.3d at 105-06; *Roach v. T.L. Cannon Corp.*, 778 F.3d 401, 405 (2d Cir. 2015). Rule 23 does not require a plaintiff to set forth a detailed model for calculating damages at the class certification stage. *Waggoner*, 875 F.3d at 105-06. Plaintiffs need only show that their damages model "measure[s] damages that result from the class's asserted theory of injury." *Id.* at 106 (interpreting *Comcast Corp. v. Behrend*, 569 U.S. 27 (2013)); *Roach*, 778 F.3d at 407 (same); *see also Sykes v. Mel S. Harris & Assocs., LLC*, 780 F.3d 70, 88 (2d Cir. 2015) ("All that is required at class certification is that the plaintiffs must be able to show that their damages stemmed from the defendant's actions that created the legal liability.").

Dr. Mason has applied a straightforward event study methodology to measure out-of-pocket damages based upon AP7's sole theory of liability—that Defendants' material misstatements and omissions created or maintained artificial inflation in Goldman's stock price during the Class Period, causing losses when that inflation was released from the stock price following the disclosure of information revealing the fraud. *See* Mason Rpt. ¶¶ 95-97. Dr. Mason has used his event study to quantify the amount of artificial inflation in Goldman's stock price that Defendants' misstatements and omissions caused or maintained. *Id.* That artificial inflation amount—calculated on a per-share basis using common evidence—can be formulaically applied

to all Class members' transactions to compute individual damages. *Id.*[14] AP7's proposed damages methodology is thus "directly linked with [its] underlying theory of classwide liability . . . and is therefore in accord with . . . *Comcast*." *Waggoner*, 875 F.3d at 106. This methodology has been endorsed repeatedly by courts in this Circuit. *See, e.g.*, *id*. (predominance satisfied where "damages for individual class members could be calculated by applying a method across the entire class that focused on the decline in stock price following the [corrective] disclosure . . . and then isolating company-specific events from market and industry events"); *Wilson*, 2018 WL 3913115, at *17 (proposed damages methodology using event study to measure artificial stock price inflation sufficient); *JPMorgan*, 2015 WL 10433433, at *7 (same).

2. Superiority Is Established

To determine whether a class action is superior to other methods of adjudication, courts consider the following four factors: (i) the interests of members of the class in individually controlling the prosecution of separate actions; (ii) whether other litigation has already commenced; (iii) the desirability or undesirability of concentrating claims in one forum; and (iv) the likely difficulties in managing a class action. Fed. R. Civ. P. 23(b)(3). Each of these factors supports a finding of superiority.

AP7 seeks to represent a Class consisting of a large number of geographically-dispersed Goldman common stock purchasers whose individual damages are likely small enough to render individual litigation prohibitively expensive. *See Menaldi*, 328 F.R.D. at 100. Moreover, concentrating litigation against Defendants "in a single forum, particularly this one, has clear benefits," including eliminating the "risk of inconsistent adjudication" and promoting "the fair and

[14] While the actual amount of damages sustained will differ depending on each Class member's transactions, "the fact that damages may have to be ascertained on an individual basis is not sufficient to defeat class certification under Rule 23(b)(3)." *Roach*, 778 F.3d at 405.

efficient use of the judicial system." *Tsereteli v. Residential Asset Securitization Tr. 2006-A8,* 283 F.R.D. 199, 218 (S.D.N.Y. 2012). Multiple lawsuits, on the other hand, would be costly and inefficient. Currently, AP7 is not aware of any other pending litigation alleging the same claims against Goldman. Finally, securities class actions generally raise no unusual manageability issues. Indeed, federal securities class actions are routinely certified in the Southern District. *Id*. This case is no different. *See, e.g.*, *Pearlstein*, 2021 WL 253453, at *23 ("[F]ailure to certify an action under Rule 23(b)(3) on the sole ground that it would be unmanageable is disfavored and should be the exception rather than the rule.").

C. Class Counsel Satisfies the Requirements of Rule 23(g)

In appointing class counsel, courts must consider: "(i) the work counsel has done in identifying or investigating potential claims in the action; (ii) counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action; (iii) counsel's knowledge of the applicable law; and (iv) the resources that counsel will commit to represent the class." Fed. R. Civ. P. 23(g)(1)(A). AP7 has retained KTMC as lead counsel and seeks its appointment as Class Counsel pursuant to Rule 23(g). AP7 also seeks appointment of BLBG as Liaison Counsel. Both law firms are highly experienced in litigating securities class actions and other complex litigation. Moreover, as described in Section III.A.4, counsel has demonstrated its commitment to prosecuting this action, and will continue to devote the resources required to serve the Class's best interests. *See Pearlstein*, 2021 WL 253453, at *11.

IV. CONCLUSION

For the foregoing reasons, AP7 respectfully requests that the Court: (i) certify this action as a class action pursuant to Rules 23(a) and 23(b)(3); (ii) appoint AP7 to serve as Class Representative; and (iii) appoint KTMC as Class Counsel and BLBG as Liaison Counsel.

Dated: September 29, 2023 Respectfully submitted,

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