IN THE SUPREME COURT OF THE UNITED STATES

No. 20-222

GOLDMAN SACHS GROUP, INC., ET AL., PETITIONERS

v.

ARKANSAS TEACHER RETIREMENT SYSTEM, ET AL.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

MOTION OF THE UNITED STATES FOR LEAVE TO PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE AND FOR DIVIDED ARGUMENT

Pursuant to Rules 28.4 and 28.7 of this Court, the Acting Solicitor General, on behalf of the United States, respectfully moves that the United States be granted leave to participate in the oral argument in this case and that the United States be allowed ten minutes of argument time. The United States has filed a brief as amicus curiae in support of neither party. Petitioners and respondents have consented to this motion, and each side has agreed to cede five minutes of its argument time to the United States.

This case presents two questions. The first is whether a

defendant in a securities-fraud class action may rely on the nature of the alleged misstatements in order to rebut the presumption of classwide reliance recognized in Basic Inc. v. Levinson, 485 U.S. 224 (1988), by showing that those misstatements did not impact the market price of the security. The second is whether a defendant seeking to rebut the Basic presumption by showing the absence of price impact bears the burden of persuasion on that issue.

The United States has a substantial interest in the resolution of both questions presented. While the Department of Justice and the Securities and Exchange Commission (SEC) regularly bring enforcement actions to address violations of the federal securities laws, meritorious private securities-fraud suits (including class actions) are an essential complement to those enforcement efforts and help to ensure compliance with federal statutory requirements as well as regulations promulgated by the SEC.

The United States has previously presented oral argument as amicus curiae in cases involving the administration of the federal securities laws. E.g., Halliburton Co. v. Erica P. John Fund, Inc., 573 U.S. 258 (2014); Amgen Inc. v. Connecticut Retirement Plans & Trust Funds, 568 U.S. 455 (2013); Erica P. John Fund, Inc. v. Halliburton Co., 563 U.S. 804 (2011). In light of the substantial federal interest in the question presented, the United

States' participation at oral argument could materially assist the Court in its consideration of this case.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Acting Solicitor General
Counsel of Record

FEBRUARY 2021