

IN THE SUPREME COURT OF THE UNITED STATES

No. 24-345

FS CREDIT OPPORTUNITIES CORP., ET AL., PETITIONERS

v.

SABA CAPITAL MASTER FUND, LTD., 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 the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves for leave to participate in the oral argument in this case as amicus curiae supporting petitioners and requests that the United States be allowed ten minutes of argument time. Petitioners consent to this motion and have agreed to cede ten minutes of argument time to the United States. Accordingly, if this motion is granted, the argument time would be divided as follows: 20 minutes for petitioners, 10 minutes for the United States, and 30 minutes for respondents.

This case concerns whether Section 47(b) of the Investment Company Act of 1940 (ICA), 15 U.S.C. 80a-46(b), creates a private right of action under federal law to sue for rescission of a

contract that allegedly violates the ICA. The United States has a substantial interest in the resolution of the question presented. The Department of Justice and the Securities and Exchange Commission administer and enforce the federal securities laws, including the ICA. At the invitation of the Court, the United States filed a brief as amicus curiae at the petition stage of this case. At the merits stage, the United States filed a brief as amicus curiae supporting petitioners.

The United States has previously presented oral argument as amicus curiae in cases involving the ICA. See, e.g., Jones v. Harris Assocs. L.P., 559 U.S. 335 (2010); Kamen v. Kemper Fin. Servs., Inc., 500 U.S. 90 (1991); Burks v. Lasker, 441 U.S. 471 (1979). The United States has also presented oral argument in cases concerning the private enforceability of the federal securities laws. See, e.g., Stoneridge Inv. Partners, LLC v. Scientific-Atlanta, Inc., 552 U.S. 148 (2008); Central Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A., 511 U.S. 164 (1994); Transamerica Mortg. Advisors, Inc. v. Lewis, 444 U.S. 11 (1979). We therefore believe that the United States' participation in oral argument in this case would be of material assistance to the Court.

Respectfully submitted.

D. JOHN SAUER
Solicitor General
Counsel of Record

SEPTEMBER 2025