SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

CAMELOT EVENT DRIVEN FUND, A SERIES OF FRANK FUNDS TRUST, Individually and On Behalf of All Others Similarly Situated, Plaintiff, v. MORGAN STANLEY & CO. LLC, J.P. MORGAN SECURITIES, LLC, CITIGROUP GLOBAL MARKETS INC., GOLDMAN SACHS & CO. LLC, MIZUHO SECURITIES USA LLC, SIEBERT WILLIAMS SHANK & CO., LLC, BNP PARIBAS SECURITIES CORP., RBC CAPITAL MARKETS, LLC, U.S. BANCORP INVESTMENTS, INC., SMBC NIKKO SECURITIES AMERICA, INC., TD SECURITIES (USA) LLC, SG AMERICAS SECURITIES, LLC, MUFG SECURITIES AMERICAS INC., CASTLEOAK SECURITIES, L.P., SAMUEL A. RAMIREZ & COMPANY, INC., ACADEMY SECURITIES, INC., R. SEELAUS & CO., LLC, WELLS FARGO SECURITIES, LLC, BNY MELLON CAPITAL MARKETS, LLC, INTESA SANPAOLO S.P.A., ICBC STANDARD BANK PLC, VIACOMCBS, INC., ROBERT M. BAKISH, KATHERINE GILL-CHAREST, SHARI E. REDSTONE, CANDACE K. BEINECKE, BARBARA M. BYRNE, LINDA M. GRIEGO, ROBERT N. KLIEGER, JUDITH A. MCHALE, RONALD L. NELSON, CHARLES E. PHILLIPS, JR., SUSAN SCHUMAN, NICOLE SELIGMAN, and FREDERICK O. TERRELL, Defendants.	Index No. 654959/2021 **AMENDED CLASS ACTION COMPLAINT** DEMAND FOR JURY TRIAL

735360.1

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Plaintiffs Camelot Event Driven Fund, A Series Of Frank Funds Trust ("Camelot"), and Municipal Police Employees' Retirement System ("MPERS" and, together with Camelot, "Plaintiffs"), individually and on behalf of all others similarly situated, by and through their attorneys, allege the following upon information and belief, except as to those allegations concerning Plaintiffs, which are alleged upon personal knowledge. Plaintiffs' information and belief is based upon, among other things, their counsel's investigation, which includes without limitation, review and analysis of U.S. Securities and Exchange Commission ("SEC") filings made by ViacomCBS Inc. ("Viacom") and the Underwriter Defendants (defined below at ¶ 48); the Underwriter Defendants' and Viacom's press releases, conference-call transcripts, and presentations; public statements issued by Defendants; analyst, media, and industry reports; the Credit Suisse Group AG Special Committee of the Board of Directors Report on Archegos Capital Management, LP, dated July 29, 2021; and other publicly available information. Plaintiffs' investigation into the matters alleged in this Complaint is continuing, and many relevant facts are known only to, or are exclusively within the custody and control of, Defendants. Plaintiffs believe that substantial additional evidentiary support will exist for the allegations in this Complaint after a reasonable opportunity for discovery.

In this securities class action, Plaintiffs assert claims under Sections 11, 12(a)(2), and 15 of the Securities Act of 1933 (the "Securities Act") on behalf of all persons and entities who purchased or otherwise acquired: (i) Viacom Class B Common Stock ("Common Stock") issued in Viacom's secondary public offering, which was announced on March 22, 2021, priced on March 23, 2021, and closed on March 26, 2021 (the "Common Offering"); and/or (ii) Viacom's 5.75% Series A Mandatory Convertible Preferred Stock ("Preferred Stock") issued in or traceable to Viacom's initial public offering of that Preferred Stock, which was announced on March 22, 2021, priced on March 23, 2021, and closed on March 26, 2021 (the "Preferred Offering" and, together with the Common Offering, the "Offerings"), and were damaged thereby (the "Class").[1]

I. NATURE OF THE ACTION AND OVERVIEW

1. This action arises from misrepresentations and omissions concerning a self-serving scheme by the underwriters of offerings of $3 billion worth of Viacom securities. The Underwriter Defendants (defined at ¶ 48 below) sold the securities to the investing public at $85 per share of Common Stock and $100 per share of Preferred Stock. Unbeknownst to investors, at the same time they were conducting those Offerings, certain banks underwriting the Offerings—the "Conflicted Defendants" (defined at ¶ 49 below)—dumped tens of millions of shares of Viacom securities at fire-sale prices far below the Offering prices. Those actions caused the price of Viacom Common and Preferred Stock to immediately crater to nearly half the price at which Defendants had just sold those securities to the investing public in the Offerings, saddling unsuspecting investors with massive losses.

2. At the time they were conducting the Offerings, the Conflicted Defendants, including the Offerings' lead book-running manager Morgan Stanley and co-manager Goldman Sachs, were simultaneously serving as prime brokers to one of the largest investors in Viacom stock: Archegos Capital Management, LP ("Archegos"). Archegos was a "family office" operated by Sung Kook "Bill" Hwang ("Hwang"). Unlike most institutional investors that must publicly

[1] The Common Offering documents included a "Base Prospectus" dated March 27, 2020, a "Common Stock Preliminary Prospectus Supplement" filed on March 22, 2021, a "Common Stock Free Writing Prospectus" filed on March 23, 2021, and an additional "Common Stock Prospectus Supplement" filed on March 25, 2021. The Preferred Offering documents included a "Base Prospectus" dated March 27, 2020, a "Preferred Stock Preliminary Prospectus Supplement" filed on March 22, 2021, a "Preferred Stock Free Writing Prospectus" filed on March 23, 2021, and an additional "Preferred Stock Prospectus Supplement" dated March 25, 2021. The registration statement for the Offerings was filed on March 27, 2020. The above registration statements and prospectuses for the Offerings are collectively referred to as the "Offering Materials."

disclose information about securities holdings, as a family office, Archegos was subject to little regulation and fewer disclosure obligations. Accordingly, many market participants had never even heard of Archegos or Hwang before March 2021. By early 2021, Archegos had assets of around $10 billion, but held highly leveraged positions amounting to $120 billion in total market exposure ($70 billion in long exposure and $50 billion in short exposure).

3. The Conflicted Defendants knew that Archegos's investment portfolio was massively leveraged and highly concentrated in a handful of securities, including Viacom, through derivative instruments known as "total return swaps." As a March 30, 2021 article in the *Wall Street Journal* reported, total return swaps "are among the most controversial products on Wall Street." And according to an April 1, 2021 article in the *Wall Street Journal*, Warren Buffett described total return swaps and similar derivative investment products as "financial weapons of mass destruction, carrying dangers that, while now latent, are potentially lethal." In their role as prime brokers, the Conflicted Defendants and other Wall Street banks served as the counterparties to the Archegos "total return swaps." Through these total return swaps, Archegos owned a synthetic long interest in Viacom stock, but the underlying Viacom stock in which Archegos invested was held on the Conflicted Defendants' own balance sheets, which enabled Archegos to avoid public disclosure of its positions.

4. The massive leverage that enabled Archegos to accrue those positions meant that declines in the prices of one or more of those stocks could trigger margin calls by the prime broker banks, including the Conflicted Defendants. If Archegos could not meet those margin calls, that failure would cause the prime brokers to liquidate the securities they held to cover the margin calls. The liquidation of such large amounts of those securities would cause their prices to come crashing down—precisely the scenario that occurred with Viacom securities in the runup to the Offerings,

without any disclosure to investors in the Offerings.

5. On March 23, 2021, the Underwriter Defendants priced the Common Offering at $85.00 per share, and the Preferred Offering at $100.00 per share. However, at the very same time as the underwriting teams at the Conflicted Defendants were pricing the Offerings and issuing the Offering Materials, their colleagues in the banks' prime brokerage departments were issuing billions of dollars of margin calls to Archegos due to declines in the value of the Viacom securities linked to the total return swaps. Archegos told these banks that it could not meet those margin calls.

6. This meant that the Conflicted Defendant banks and other prime brokers who held billions of dollars of Viacom securities linked to the Archegos total return swaps would swiftly liquidate those securities to satisfy the margin calls that Archegos could not meet. That, in turn, meant that the prices of Viacom securities were about to collapse far below the prices at which the Conflicted Defendants were simultaneously selling them to investors in the Offerings.

7. Faced with the scenario of an imminent fire sale of Viacom securities due to Archegos's liquidity crisis—and the resulting collapse in the price of Viacom securities they were selling in the Offerings—the Conflicted Defendants conferred with the other banks serving as Archegos's prime brokers. They conferred together after the Conflicted Defendants had priced the Viacom Offerings but before the Offerings closed. They discussed the possibility of an orderly selloff that would minimize market disruption. They declined to agree on an orderly selloff.

8. The banks' refusal to agree to a structured selloff of the Archegos positions triggered a massive fire sale that would necessarily cause the prices of the Viacom securities to plunge far below the Offering prices. Indeed, Archegos's prime brokers, including the Conflicted Defendants, began racing to sell the Viacom securities they had on their balance sheets, both to

satisfy the margin calls they had made and to avoid suffering big losses themselves as the prices of those securities plummeted amid the turmoil.

9. Although the Conflicted Defendants knew these facts, they did not disclose them to investors in the Offering Materials, in violation of governing disclosure requirements, including Item 508 of SEC Regulation S-K. Rather than fulfill their disclosure obligations—which would certainly kill the Offerings and the lucrative fees that the Conflicted Defendants stood to collect from them—the Conflicted Defendants concealed the looming Archegos stampede that they knew would decimate the prices of the Viacom securities they were selling to unsuspecting investors.

10. Moreover, instead of disclosing these critical facts, Defendants made materially misleading statements to investors in the Offering Materials. In the Offering Materials, the Underwriter Defendants represented that they "may engage in transactions that . . . affect the price" of the securities offered, such as to "stabilize" share prices after the Offerings—the exact opposite of what was planned and occurred. Defendants also told investors that the underwriters might exercise "overallotment" options to purchase substantial quantities of additional shares at the same prices as the Offerings—again, the opposite of what was planned and occurred. Nor did the Conflicted Defendants delay the Offerings or re-price them.

11. Instead, they: (i) sold the Viacom securities to the unsuspecting investing public at $85 per share of Common Stock and $100 per share of Preferred Stock, without breathing a word about what was happening in the Offering Materials; (ii) immediately liquidated vast amounts of Viacom securities from their balance sheets at fire-sale prices way below the Offering prices, thereby avoiding losses they would incur by holding those securities as the prices cratered; and (iii) watched idly as the investors in the Offerings were immediately left holding securities worth approximately half the price they had just paid Defendants for them.

12. As Bloomberg reported on March 27, 2021, as early as March 24 and 25, before the Offerings even closed, Goldman Sachs sold $10.5 billion of the shares it held for Archegos, including Viacom shares. As the *Wall Street Journal* reported on March 28, 2021, Goldman Sachs "told some hedge funds on Friday that they were selling large blocks of stocks as a result of the involuntary deleveraging of a fund." Morgan Stanley sold $15 billion in Archegos-related securities over the course of a few days, including, as the *Wall Street Journal* reported, 45 million shares of Viacom on the night of Sunday, March 28, not even one business day after the Offerings closed. Bloomberg reported that the trade was priced at $46 to $47 per share. In other words, rather than acting as a stabilizing force in the Offerings, as the Offering Materials disclosed might happen, a lead underwriter dumped approximately $2.1 billion in Viacom stock (representing nearly 8% of the public float) overnight, at prices that were vastly below the offering price.

13. Meanwhile, Goldman Sachs orchestrated its own block sales, reportedly selling off approximately $1.7 billion of Viacom stock by midday on Friday, March 26, 2021 (35 million shares, priced at $48 each), according to an April 1, 2021 CNBC news report.

14. As a result, by Friday, March 26, when the Offerings closed, Viacom common shares—sold for $85.00 per share in the Common Offering—were trading at $48.23 per share, a nearly 45% decline. By the following Monday, those shares had fallen further to $45.01, nearly 50% below the Offering price. Similarly, the shares of Preferred Stock that were offered and sold for $100.00 per share were driven down to $67.50 per share on March 26 and $63.34 on March 29, nearly 37% below the Offering price.

15. Market observers were stunned by the Conflicted Defendants' liquidations of Viacom securities. As CNBC reported, "[w]hile certain bankers at Morgan Stanley and Goldman Sachs were pitching [the Offerings] to investors, some of their peers in the prime brokerage

division were growing increasingly concerned about the risk profile of . . . Archegos, which had large, leveraged exposure to ViacomCBS." According to an April 1, 2021 Bloomberg report, "[w]hat's clear, according to people involved in the margin call and what followed," was that "*Goldman Sachs Group Inc., Morgan Stanley, . . . and others, had clues about what Archegos was doing*."[2] Public investors in the Offerings, however, had no idea of "what Archegos was doing," or what the Conflicted Defendant underwriters were doing—organizing massive block sales of enormous quantities of Viacom securities, which were sure to decimate the prices of the very shares they were offering to Plaintiffs and the Class.

16. There is no credible question that information about both the terms of the underwriting of the Offerings and the ongoing fire-sale of Viacom securities was known to senior executives of the five Conflicted Defendants early in the week of March 22, 2021, before the Offerings closed on March 26. During Morgan Stanley's April 16, 2021 first-quarter 2021 earnings call, Morgan Stanley CEO James Gorman admitted that the bank purposefully waited until after the Offerings closed to shed Viacom shares, and "*the reason for that was not that we weren't aware of what was going on*," but rather that Morgan Stanley knew the block sales would have driven down Viacom's market price and driven public investors away from the Offerings. On its April 14, 2021 first-quarter 2021 earnings call, Goldman Sachs CEO David Solomon similarly admitted that Goldman Sachs had "*identified the risk early and took prompt action*."

17. The fallout from Archegos's collapse was harsh and swift, as the U.S. Senate Banking Committee has demanded information from Archegos's prime brokers, including Conflicted Defendants Morgan Stanley and Goldman Sachs. On April 7, 2021, Senator Sherrod Brown, as Chairman of the Banking Committee, demanded information concerning whether the

2 Unless otherwise noted, all emphasis in quotations in this Complaint is added.

Offerings "contributed to the Archegos margin call," and that the banks "explain the oversight and management of the brokerage relationship with Archegos and the sale [of] ViacomCBS shares and of the completion of the offering of ViacomCBS shares." Senator Brown's letter further demanded information concerning the banks' "participation in, or consideration of, any coordination with other banks to sell, or to refrain from selling, stocks related to Archegos transactions." The U.S. Department of Justice (the "DOJ"), the SEC, and multiple foreign regulators have also opened investigations into Archegos and its prime brokers.

18. By engaging in the conduct detailed herein, the Conflicted Defendants profited enormously. They pocketed (i) tens of millions of dollars or more in fees and commissions from their prime brokerage relationships with Archegos and (ii) an additional $43.875 million of fees earned from the Offerings; *and* they (iii) avoided catastrophic losses arising from their conflicted relationships with Hwang and Archegos by selling off huge amounts of Viacom securities to satisfy margin calls that Archegos could not meet. While the Conflicted Defendants reaped these rewards, they and the other Underwriter Defendants sold billions of dollars of Viacom securities to Plaintiffs and the Class through defective Offering Materials that left public investors in the dark about the massive, imminent harm they faced. Plaintiffs bring this suit to recover those losses.

II. JURISDICTION AND VENUE

19. The claims asserted in this Complaint arise under Sections 11, 12(a)(2), and 15 of the Securities Act (15 U.S.C. §§ 77k, 77*l*(a)(2), and 77o). This Court has jurisdiction over the subject matter of this action under the New York Constitution, Article VI, § 7(a), and Section 22 of the Securities Act (15 U.S.C. § 77v), pursuant to which "[e]xcept as provided in section 16(c), no case arising under this title and brought in any State court of competent jurisdiction shall be removed to any court in the United States." Section 16(c) of the Securities Act refers to "covered class actions," which are defined as lawsuits brought as class actions or brought on behalf of more

than fifty persons asserting claims under state or common law. This action asserts federal law claims. Thus, it does not fall within the definition of a "covered class action" under Section 16(c) and therefore is not removable to federal court under the Securities Litigation Uniform Standards Act of 1998 or otherwise. In addition, as the Supreme Court of the United States explained in *Cyan, Inc. v. Beaver County Employees Retirement Fund*, 138 S. Ct. 1061 (2018), state courts have concurrent jurisdiction with federal courts over claims based on alleged violations of the Securities Act.

20. The Court has personal jurisdiction over each of the Defendants, and venue is proper in this County, under Section 22 of the Securities Act and N.Y. C.P.L.R. Sections 301, 302, and 504. Most of the Defendants maintain offices in this County, and those that do not maintain offices in this County conduct extensive business in this County; Defendants delivered the Viacom securities against payment in this County; and the securities trade in this County on the Nasdaq Global Select Market ("NASDAQ").

21. In sum, the situs of this action lies within the County; Defendants' acts occurred in this County and caused injury to the purchasers of Viacom securities in this County; and each of the Defendants and members of the Class (defined below) would foreseeably expect any case or controversy stemming from the Offerings to be adjudicated in this County.

22. The amount in controversy exceeds the $500,000 jurisdictional minimum of this Court.

III. PARTIES AND RELEVANT NON-PARTIES

A. Plaintiffs

23. Plaintiff Camelot purchased Common Stock and Preferred Stock directly from one of the Underwriter Defendants pursuant to the respective Offering Materials issued in connection with the Offerings and has been damaged thereby.

24. Plaintiff MPERS is a statewide retirement system that provides retirement, disability, and survivor benefits to full-time police officers in Louisiana and their families, and has done so for over 48 years. MPERS oversees approximately $2.8 billion in assets on behalf of over 12,000 active participants. MPERS purchased Viacom Preferred Stock on the Preferred Offering directly from Defendant Morgan Stanley and has been damaged thereby.

B. Underwriter Defendants

25. The Offerings were firm commitment underwritings in which the Underwriter Defendants were obligated to take and pay for all the offered securities and to bear any inventory risk with respect to securities that they could not resell to investors.

26. Defendant Morgan Stanley & Co. LLC ("Morgan Stanley") is a Delaware limited liability company and registered broker-dealer with its principal place of business at 1585 Broadway, New York, New York. Morgan Stanley served as a representative and joint book-running manager for the Offerings. In the Common Offering, Morgan Stanley agreed to purchase and sell to investors 8,923,076 shares of the Company's Common Stock, exclusive of the over-allotment option. In the Preferred Offering, Morgan Stanley agreed to purchase and sell to investors 4,461,537 shares of the Company's Preferred Stock, exclusive of the over-allotment option. At all relevant times, Morgan Stanley's Institutional Securities Segment housed both its investment-banking business unit, which included securities underwriting services, and its prime brokerage. In that capacity, Morgan Stanley (the same legal entity) underwrote the Offerings, provided prime-brokerage services for Archegos, and participated in the fire sale of Viacom and other Archegos-related securities during the week of the Offerings. The Morgan Stanley personnel directly involved in underwriting the Offerings and those directly involved in selling the Archegos-related securities reported to the same senior executives, including the head of Institutional Securities, who were aware of and responsible for both sets of transactions.

27. Defendant J.P. Morgan Securities LLC ("J.P. Morgan") is a Delaware limited liability company and registered broker-dealer with its principal place of business at 383 Madison Avenue, New York, New York. J.P. Morgan served as representative and joint book-running manager for the Offerings. In the Common Offering, J.P. Morgan agreed to purchase and sell to investors 2,307,691 shares of the Company's Common Stock, exclusive of the over-allotment option. In the Preferred Offering, J.P. Morgan agreed to purchase and sell to investors 1,153,845 shares of the Company's Preferred Stock, exclusive of the over-allotment option. J.P. Morgan refused to provide prime-brokerage services to Archegos because of Hwang's history of wrongdoing.

28. Defendant Citigroup Global Markets Inc. ("Citigroup") is a New York corporation and registered broker-dealer with a principal place of business at 388 Greenwich Street, New York, New York. Citigroup served as a co-manager for the Offerings. In the Common Offering, Citigroup agreed to purchase and sell to investors 1,476,923 shares of the Company's Common Stock, exclusive of the over-allotment option. In the Preferred Offering, Citigroup agreed to purchase and sell to investors 738,462 shares of the Company's Preferred Stock, exclusive of the over-allotment option.

29. Defendant Goldman Sachs & Co. LLC ("Goldman Sachs") is a New York limited liability company and registered broker-dealer with its principal place of business at 200 West Street, New York, New York. Goldman Sachs served as a co-manager for the Offerings. In the Common Offering, Goldman Sachs agreed to purchase and sell to investors 646,154 shares of the Company's Common Stock, exclusive of the over-allotment option. In the Preferred Offering, Goldman Sachs agreed to purchase and sell to investors 323,077 shares of the Company's Preferred Stock, exclusive of the over-allotment option. At all relevant times, Goldman Sachs

provided its underwriting services, including for the Offerings, through the bank's Americas Equity Capital Markets group, which is part of Goldman Sachs's Investment Banking Division, and provided prime-brokerage services through the bank's Global Markets Division. The heads of Global Markets and Investment Banking sat on the bank's Management Committee together with Goldman Sachs's CEO David Solomon and COO John Waldron, and reported directly to Solomon and Waldron. In addition to underwriting the Offerings, Goldman Sachs (the same legal entity) provided prime-brokerage services for Archegos—after initially refusing to do so because of Hwang's history of wrongdoing—and participated in the fire sale of Viacom and other Archegos-related securities during the week of the Offerings. The Goldman Sachs personnel directly involved in underwriting the Offerings and those directly involved in selling the Archegos-related securities reported to the same senior executives, who were aware of and responsible for both sets of transactions.

30. Defendant Mizuho Securities USA LLC ("Mizuho") is a Delaware limited liability company and registered broker-dealer with a principal place of business at 1271 Avenue of the Americas, New York, New York. Mizuho served as a co-manager for the Offerings. In the Common Offering, Mizuho agreed to purchase and sell to investors 646,154 shares of the Company's Common Stock, exclusive of the over-allotment option. In the Preferred Offering, Mizuho agreed to purchase and sell to investors 323,077 shares of the Company's Preferred Stock, exclusive of the over-allotment option.

31. Defendant Siebert Williams Shank & Co., LLC ("Siebert") is a Delaware limited liability company and registered broker-dealer with a principal place of business at 1999 Harrison Street, Oakland, California. Siebert served as a co-manager for the Offerings. In the Common Offering, Siebert agreed to purchase and sell to investors 646,154 shares of the Company's

Common Stock, exclusive of the over-allotment option. In the Preferred Offering, Siebert agreed to purchase and sell to investors 323,077 shares of the Company's Preferred Stock, exclusive of the over-allotment option.

32. Defendant BNP Paribas Securities Corp. ("BNP Paribas") is a Delaware corporation and registered broker-dealer with its principal place of business at 787 Seventh Avenue, New York, New York. BNP Paribas served as co-manager for the Offerings. In the Common Offering, BNP Paribas agreed to purchase and sell to investors 528,462 shares of the Company's Common Stock, exclusive of the over-allotment option. In the Preferred Offering, BNP Paribas agreed to purchase and sell to investors 166,154 shares of the Company's Preferred Stock, exclusive of the over-allotment option. In July 2019, BNP Paribas announced that it had agreed to acquire Deutsche Bank's prime-brokerage business, and that Deutsche Bank's prime brokerage, including staff, clients, and technology, would join BNP Paribas. At the time that deal was announced, BNP Paribas and Deutsche Bank issued a joint statement representing that "[b]oth firms will work closely together to ensure a seamless transition for clients, through the migration of technology and key staff from Deutsche Bank to BNP Paribas," and the banks subsequently jointly affirmed the "close collaboration between the teams of BNP Paribas and Deutsche Bank as well as the banks' strong commitment to ensure a continuity of service to their global institutional clients." In February 2021, just weeks before the Offerings, BNP Paribas publicly touted the "implementation of the . . . prime brokerage agreement" with Deutsche Bank, including "a growing P&L as a result of more clients being onboarded as part of the integration of Deutsche Bank's prime brokerage business." Deutsche Bank stated after Archegos imploded that "we are, essentially, operating the [prime-brokerage] business on BNP Paribas' behalf," and that "the partnership with BNP Paribas has been strong, and was, if anything, strengthened by managing

through this situation collaboratively."

33. At the time of the Offerings, BNP Paribas's securities underwriting group and its prime brokerage were both housed in the bank's Corporate Institutional Banking ("CIB") unit, and the heads of underwriting and the heads of the Execution Services group that included prime-brokerage services both reported directly to Jean-Yves Fillion, CEO of BNP Paribas USA and Chairman of CIB Americas for the bank. In addition to underwriting the Offerings, BNP Paribas—through the prime brokerage that it acquired from and operated alongside Deutsche Bank—provided prime-brokerage services for Archegos and participated in the fire sale of Viacom and other Archegos-related securities during the week of the Offerings. The BNP Paribas personnel directly involved in underwriting the Offerings and those directly involved in selling the Archegos-related securities reported to the same senior executives, who were aware of and responsible for both sets of transactions.

34. Defendant RBC Capital Markets, LLC ("RBC Capital") is a Minnesota limited liability company and registered broker-dealer with a principal place of business at 200 Vesey Street, New York, New York. RBC Capital served as co-manager for the Offerings. In the Common Offering, RBC Capital agreed to purchase and sell to investors 528,462 shares of the Company's Common Stock, exclusive of the over-allotment option. In the Preferred Offering, BNP Paribas agreed to purchase and sell to investors 166,154 shares of the Company's Preferred Stock, exclusive of the over-allotment option.

35. Defendant U.S. Bancorp Investments, Inc. ("U.S. Bancorp") is a Delaware corporation and registered broker-dealer with a principal place of business at 800 Nicollet Mall, Minneapolis, Minnesota. U.S. Bancorp served as a co-manager for the Preferred Offering. U.S. Bancorp agreed to purchase and sell to investors 553,846 shares of the Company's Preferred Stock

in the Preferred Offering, exclusive of the over-allotment option.

36. Defendant SMBC Nikko Securities America, Inc. ("SMBC") is a Delaware corporation and registered broker-dealer with a principal place of business at 277 Park Avenue, New York, New York. SMBC served as a co-manager for the Offerings. In the Common Offering, SMBC agreed to purchase and sell to investors 528,462 shares of the Company's Common Stock, exclusive of the over-allotment option. In the Preferred Offering, SMBC agreed to purchase and sell to investors 166,154 shares of the Company's Preferred Stock, exclusive of the over-allotment option.

37. Defendant TD Securities (USA) LLC ("TD Securities") is a Delaware limited liability company and registered broker-dealer with a principal place of business at 31 West 52nd Street, New York, New York. TD Securities served as a co-manager for the Offerings. In the Common Offering, TD Securities agreed to purchase and sell to investors 528,462 shares of the Company's Common Stock, exclusive of the over-allotment option. In the Preferred Offering, TD Securities agreed to purchase and sell to investors 166,154 shares of the Company's Preferred Stock, exclusive of the over-allotment option.

38. Defendant SG Americas Securities, LLC ("SG Americas") is a Delaware limited liability company and registered broker-dealer with a principal place of business at 245 Park Avenue, New York, New York. SG Americas served as a co-manager for the Offerings. In the Common Offering, SG Americas agreed to purchase and sell to investors 528,462 shares of the Company's Common Stock, exclusive of the over-allotment option. In the Preferred Offering, SG Americas agreed to purchase and sell to investors 166,154 shares of the Company's Preferred Stock, exclusive of the over-allotment option.

39. Defendant MUFG Securities Americas Inc. ("MUFG Securities") is a New York

corporation and registered broker-dealer with its principal place of business at 1221 Avenue of the Americas, New York, New York. MUFG Securities served as a co-manager for the Offerings. In the Common Offering, MUFG Securities agreed to purchase and sell to investors 528,462 shares of the Company's Common Stock, exclusive of the over-allotment option. In the Preferred Offering, MUFG Securities agreed to purchase and sell to investors 166,154 shares of the Company's Preferred Stock, exclusive of the over-allotment option. In addition to MUFG Securities' underwriting the Offerings, its affiliate MUFG Securities EMEA plc, a subsidiary of Mitsubishi UFJ Securities Holdings Co., Ltd. ("Mitsubishi UFJ"), provided prime-brokerage services for Archegos and participated in the fire sale of Viacom and other Archegos-related securities during the week of the Offerings. The MUFG Securities personnel directly involved in underwriting the Offerings (including the heads of the bank's Global Markets group and the Corporate & Investment Banking group it sat in) and the Mitsubishi UFJ personnel directly involved in selling the Archegos-related securities (including the head of Mitsubishi UFJ) reported to the same senior executives, including Masato Miyachi, the Senior Managing Corporate Executive Group Head, Global Corporate & Investment Banking Business Group, of Mitsubishi UFJ Financial Group, Inc. ("MUFG"), who were aware of and responsible for both sets of transactions.

40. Defendant CastleOak Securities, L.P. ("CastleOak") is a Delaware corporation and registered broker-dealer with a principal place of business at 200 Vesey Street, New York, New York. CastleOak served as a co-manager for the Offerings. In the Common Offering, CastleOak agreed to purchase and sell to investors 392,308 shares of the Company's Common Stock, exclusive of the over-allotment option. In the Preferred Offering, CastleOak agreed to purchase and sell to investors 166,154 shares of the Company's Preferred Stock, exclusive of the over-

allotment option.

41. Defendant Samuel A. Ramirez & Company, Inc. ("Ramirez") is a New York corporation and registered broker-dealer with a principal place of business at 61 Broadway, New York, New York. Ramirez served as a co-manager for the Offerings. In the Common Offering, Ramirez agreed to purchase and sell to investors 392,308 shares of the Company's Common Stock, exclusive of the over-allotment option. In the Preferred Offering, Ramirez agreed to purchase and sell to investors 166,154 shares of the Company's Preferred Stock, exclusive of the over-allotment option.

42. Defendant Academy Securities, Inc. ("Academy") is a Delaware corporation and registered broker-dealer with a principal place of business at 140 East 45th Street, New York, New York. Academy served as a co-manager for the Offerings. In the Common Offering, Academy agreed to purchase and sell to investors 392,308 shares of the Company's Common Stock, exclusive of the over-allotment option. In the Preferred Offering, Academy agreed to purchase and sell to investors 166,154 shares of the Company's Preferred Stock, exclusive of the over-allotment option.

43. Defendant R. Seelaus & Co., LLC ("R. Seelaus") is a Delaware limited liability company and registered broker-dealer with a principal place of business at 26 Main Street, Chatham, New Jersey. R. Seelaus served as a co-manager for the Offerings. In the Common Offering, R. Seelaus agreed to purchase and sell to investors 341,538 shares of the Company's Common Stock, exclusive of the over-allotment option. In the Preferred Offering, R. Seelaus agreed to purchase and sell to investors 184,615 shares of the Company's Preferred Stock, exclusive of the over-allotment option.

44. Defendant Wells Fargo Securities, LLC ("Wells Fargo Securities") is a Delaware

limited liability company and registered broker-dealer with its principal place of business at 600 California Street, San Francisco, California. Wells Fargo Securities served as co-manager for the Offerings. In the Common Offering, Wells Fargo Securities agreed to purchase and sell to investors 221,538 shares of the Company's Common Stock, exclusive of the over-allotment option. In the Preferred Offering, Wells Fargo Securities agreed to purchase and sell to investors 62,308 shares of the Company's Preferred Stock, exclusive of the over-allotment option. At all relevant times, Wells Fargo Securities housed the bank's underwriting services and Prime Services group (which housed the bank's prime brokerage), and the heads of Wells Fargo Securities and the Prime Services group both reported directly to the CEO of Corporate and Investment Banking at parent entity Wells Fargo & Co. In addition to underwriting the Offerings, Wells Fargo Securities (the same legal entity) provided prime-brokerage services for Archegos and participated in the fire sale of Viacom and other Archegos-related securities during the week of the Offerings. The Wells Fargo Securities personnel directly involved in underwriting the Offerings and those directly involved in selling the Archegos-related securities reported to the same senior executives, who were aware of and responsible for both sets of transactions.

45. Defendant BNY Mellon Capital Markets, LLC ("BNY Mellon") is a Delaware limited liability company and registered broker-dealer with a principal place of business at 240 Greenwich Street, New York, New York. BNY Mellon served as co-manager for the Offerings. In the Common Offering, BNY Mellon agreed to purchase and sell to investors 221,538 shares of the Company's Common Stock, exclusive of the over-allotment option. In the Preferred Offering, BNY Mellon agreed to purchase and sell to investors 62,308 shares of the Company's Preferred Stock, exclusive of the over-allotment option.

46. Defendant Intesa Sanpaolo S.p.A. ("Intesa") is an Italian corporation with a

principal place of business at Piazza San Carlo 156, Turin L6 00000, Italy. Intesa served as a co-manager of the Offerings. In the Common Offering, Intesa agreed to purchase and sell to investors 221,538 shares of the Company's Common Stock, exclusive of the over-allotment option. In the Preferred Offering, Intesa agreed to purchase and sell to investors 62,308 shares of the Company's Preferred Stock, exclusive of the over-allotment option.

47. Defendant ICBC Standard Bank Plc ("ICBC") is a United Kingdom-based company with a principal place of business at 20 Gresham Street, London, EC2V 7JE, United Kingdom. ICBC served as a co-manager of the Preferred Offering and agreed to purchase and sell to investors 256,154 shares of Preferred Stock.

48. Defendants Morgan Stanley, J.P. Morgan, Citigroup, Goldman Sachs, Mizuho, Siebert, BNP Paribas, RBC Capital, U.S. Bancorp, SMBC, TD Securities, SG Americas, MUFG Securities, CastleOak, Ramirez, Academy, R. Seelaus, Wells Fargo Securities, BNY Mellon, Intesa, and ICBC are collectively referred to in this Complaint as the "Underwriter Defendants."

49. Defendants Morgan Stanley, Goldman Sachs, Wells Fargo, BNP Paribas, and MUFG Securities, which acted both as underwriters of the Offerings and as prime brokerages for Archegos's total return swaps on Viacom and other securities, are referred to in this Complaint as the "Conflicted Defendants."

C. Defendant Viacom and Individual Defendants

50. Defendant Viacom is incorporated under the laws of Delaware with its principal executive offices located at 1515 Broadway, New York, New York 10036. Viacom's Class A common stock trades on the NASDAQ exchange under the symbol "VIACA"; its Common Stock trades on the NASDAQ exchange under the symbol "VIAC"; and its Preferred Stock trades on the NASDAQ exchange under the symbol "VIACP." On March 22, 2021, Viacom announced that it would raise $3 billion in the Offerings, including $2 billion in the Common Offering and $1 billion

in the Preferred Offering. At the time the Offerings were announced, Viacom Common Stock was trading above $100 per share. The Offerings were underwritten by the Underwriter Defendants, with the Common Stock offered in the Common Offering priced at $85.00 per share and the Preferred Stock offered in the Preferred Offering priced at $100.00 per share.

51. Defendant Robert M. Bakish ("Bakish") was, at all relevant times, Chief Executive Officer ("CEO") and President of Viacom, and signed or authorized the signing of the Registration Statement filed with the SEC.

52. Defendant Katherine Gill-Charest ("Gill-Charest") was, at all relevant times, Chief Accounting Officer and signed or authorized the signing of the Registration Statement filed with the SEC.

53. Defendant Shari E. Redstone ("Redstone") was Non-Executive Chair of the Board of Directors of Viacom, and signed or authorized the signing of the Registration Statement filed with the SEC.

54. Defendant Candace K. Beinecke ("Beinecke") was a director of the Company and signed or authorized the signing of the Registration Statement filed with the SEC.

55. Defendant Barbara M. Byrne ("Byrne") was a director of the Company and signed or authorized the signing of the Registration Statement filed with the SEC.

56. Defendant Linda M. Griego ("Griego") was a director of the Company and signed or authorized the signing of the Registration Statement filed with the SEC.

57. Defendant Robert N. Klieger ("Klieger") was a director of the Company and signed or authorized the signing of the Registration Statement filed with the SEC.

58. Defendant Judith A. McHale ("McHale") was a director of the Company and signed or authorized the signing of the Registration Statement filed with the SEC.

59. Defendant Ronald L. Nelson ("Nelson") was a director of the Company and signed or authorized the signing of the Registration Statement filed with the SEC.

60. Defendant Charles E. Phillips, Jr. ("Phillips") was a director of the Company and signed or authorized the signing of the Registration Statement filed with the SEC.

61. Defendant Susan Schuman ("Schuman") was a director of the Company and signed or authorized the signing of the Registration Statement filed with the SEC.

62. Defendant Nicole Seligman ("Seligman") was a director of the Company and signed or authorized the signing of the Registration Statement filed with the SEC.

63. Defendant Frederick O. Terrell ("Terrell") was a director of the Company and signed or authorized the signing of the Registration Statement filed with the SEC.

64. Defendants Bakish, Gill-Charest, Redstone, Beinecke, Byrne, Griego, Klieger, McHale, Nelson, Phillips, Schuman, Seligman, and Terrell are collectively referred to hereinafter as the "Individual Defendants."

D. Relevant Non-Parties: Archegos, Hwang, and Additional Investment Banks <u>That Served as Archegos's Prime Brokers</u>

65. Archegos was at all relevant times a family office incorporated in Delaware with a principal place of business at 888 Seventh Avenue, New York, New York. By the time of the Offerings, through "total return swaps" agreements with its prime brokers, including Conflicted Defendants Morgan Stanley, Goldman Sachs, Wells Fargo, BNP Paribas, and MUFG Securities, Archegos had amassed highly leveraged positions representing $120 billion of exposure primarily in a handful of single-name securities, including nearly $20 billion in Viacom. This represented approximately 34% of Viacom's Common Stock. The prime brokers acquired corresponding amounts of the underlying securities to offset their exposure to their total return swaps with Archegos.

66. Hwang is a New York-based former hedge fund manager who has an extensive and well-known history of egregious investment-related misconduct. Hwang founded Archegos in 2013 and ran the fund until it imploded. Before Archegos, Hwang founded a hedge fund, Tiger Asia Management, in the early 2000s, but closed that fund in 2012 in connection with settling insider-trading and stock-manipulation charges filed by the SEC against him. At that time, Hwang paid more than $44 million in fines and was barred from the investment-advisory industry. In addition, the U.S. Department of Justice criminally charged Hwang's fund with wire fraud in connection with the insider-trading and stock-manipulation charges against him, and the fund pleaded guilty. In 2014, Hong Kong regulators banned Hwang from trading on the Hong Kong Stock Exchange because of this misconduct.

67. Credit Suisse Group AG ("Credit Suisse") is incorporated in Switzerland, and its principal executive offices are in Zurich, Switzerland. Credit Suisse engaged in highly leveraged and highly concentrated swap transactions, including Viacom swap transactions, with Archegos.

68. Nomura Holdings, Inc. ("Nomura") is incorporated in Japan, and its principal executive offices are in Tokyo, Japan. Nomura engaged in highly leveraged and highly concentrated swap transactions, including Viacom swap transactions, with Archegos.

69. Deutsche Bank Aktiengesellschaft ("Deutsche Bank") is incorporated in Germany, and its principal executive offices are in Frankfurt, Germany. Deutsche Bank engaged in highly leveraged and highly concentrated swap transactions, including Viacom swap transactions, with Archegos.

70. UBS Group AG ("UBS") is incorporated in Switzerland, and its principal executive offices are in Zurich, Switzerland. UBS engaged in highly leveraged and highly concentrated swap transactions, including Viacom swap transactions, with Archegos.

IV. SUBSTANTIVE ALLEGATIONS

A. The Conflicted Defendants Helped Archegos Build a Massive, Leveraged Position in Viacom

71. This action arises out of the deficient, materially untrue, and misleading Offering Materials that Defendants used to sell $3 billion worth of Viacom securities in the Offerings. Contemporaneous with those Offerings, Defendants dumped blocks of Viacom stock as they sought to wind down their exposure to Archegos, depressing the price of Viacom securities.

72. The Conflicted Defendants served simultaneously as underwriters for the Offerings—including Joint Book-Running Managers Morgan Stanley and Co-Manager Goldman Sachs—and also as prime brokers to Archegos. The fundamental conflicts underlying those dual roles crystalized as Archegos imploded, triggering the sale of Archegos's Viacom stock at the same time that the Defendants executed the Offerings.

73. As noted above, Hwang founded investment fund Tiger Asia Management in the early 2000s, and concentrated the Tiger Asia Management portfolio in a small number of stocks with highly leveraged positions, much as he later did at Archegos.

74. In 2012, after a years-long investigation, the SEC filed a civil suit against Tiger Asia Management accusing the fund of insider trading and manipulating Chinese bank stocks. Regarding the insider trading claims, the SEC claimed that Hwang had "crossed the wall" by receiving confidential information about pending share offerings from underwriting banks and then using that information to sell short the securities before the offerings were publicly announced, and then cover the short sales in the offerings. Hwang's insider trading scheme was profitable because when a large amount of incremental supply of a given stock hits the market, it depresses the price of that stock. Hwang would profit by selling shares short before other market participants learned of the looming incremental supply hitting the market. Hwang would then buy

back his shares at a lower price once the offerings were made, releasing additional stock into the market.

75. The SEC also pursued claims against Hwang for manipulating stock prices on the Hong Kong Stock Exchange and reaping illicit trading gains. His manipulation scheme involved trying to knock down the prices of various securities in which his fund held a short position by adding to, or pressing, his short positions right at month end (when his portfolio would be marked for management fee assessment purposes).

76. Hwang settled the SEC's case against Tiger Asia Management in 2012. The settlement included fines in excess of $44 million and barred Hwang from the investment advisory industry or from working at broker-dealers. In April 2020, the SEC partially lifted the bar on Hwang.

77. The DOJ criminally charged Hwang's Tiger Asia Management fund for wire fraud in a related action pertaining to the same allegations of insider trading and stock manipulation as charged in the SEC's civil suit. Hwang's fund pleaded guilty to the criminal charges.

78. Hwang closed Tiger Asia Management in 2012. In 2013, Hwang launched Archegos, a family office managing his personal wealth. Archegos managed approximately $10 billion of personal wealth for Hwang and his family as of the end of 2020.

79. Although family offices invest and operate similarly to hedge funds, they are subject to less stringent reporting and regulatory requirements than hedge funds. As an April 2, 2021 article in the *Wall Street Journal* reported, family offices "are far less regulated than similar vehicles such as hedge funds, which have to regularly disclose their investments." Archegos and its investments were accordingly inherently opaque, and the highly concentrated and highly leveraged nature of the Archegos portfolio posed significant risks, including its heavy reliance on

total return swaps on large positions in a small number of stocks.

80. Despite Hwang's notorious, checkered history of misconduct and penalties, Morgan Stanley, Deutsche Bank AG, and Credit Suisse Group AG all agreed to serve as prime brokers to Archegos shortly after its founding.

81. J.P. Morgan and Goldman Sachs both initially rejected Archegos as a prime-brokerage client as a direct result of Hwang's known wrongdoing. However, according to a report by Bloomberg, dated April 1, 2021, in December 2020, only a few months before the collapse of Archegos, Goldman Sachs reversed course and agreed to offer prime broker services to Archegos in order to capture some of the enormous revenue that competitor banks were reaping through their relationships with Archegos. Goldman Sachs relented to the pressure of its equities executives' demands that the bank accept Archegos as a prime-brokerage client.

82. The revenue generated by Archegos for its prime brokers was substantial, even by the standards of large financial institutions. After the collapse of Archegos led to a \$5.5 billion loss by Credit Suisse, that bank's Board of Directors hired the law firm Paul, Weiss, Rifkind, Wharton & Garrison LLP ("Paul Weiss") to conduct an internal investigation to determine how such an enormous loss happened. In its published report (the "Paul Weiss Report"), Paul Weiss found that "Prime Services [Credit Suisse's prime brokerage business] viewed its relationship with Archegos as significant, contributing revenues of \$16 million in 2020 and expected to increase to \$40 million in 2021 (based on the enormous appreciation of Archegos's positions)."[3]

83. Defendant BNP Paribas reported comparable prime-brokerage revenue, representing when it acquired Deutsche Bank's prime brokerage in 2019 that the bank anticipated top-line revenue of "around €400 million" from its prime-brokerage business, and a projected

[3] The Paul Weiss Report is attached to this Complaint as Exhibit A.

return on equity from the business line of more than 20%.

84. Paul Weiss further found that "[t]he [prime brokerage] business was focused on maintaining and growing its relationship with Archegos and was keenly aware that it was competing for Archegos's business with a number of other prime brokers. As a result, the business continually advocated for an accommodative approach to risk, refusing to take forceful steps and generally suggesting half measures that failed to address the substantial risks that Archegos posed to [Credit Suisse]. There appears to have been a reluctance among various [Credit Suisse] employees to have difficult conversations with and about Archegos."

85. The reason for this competition for Archegos's prime brokerage business is clear. According to a report in the *Wall Street Journal* on April 4, 2021, Archegos was known across Wall Street for being a lucrative prime brokerage client because of its extreme use of leverage, which its prime brokers can charge interest on, on top of its willingness to pay fees for services such as trade execution and prime brokerage services without haggling over price.

B. Archegos Used Enormous Leverage, Including Through Trading Total Return Swaps, to Create $120 Billion of Market Exposure

86. As discussed above, Archegos was a "family office" that was subject to less stringent regulatory and reporting requirements than traditional investment funds that manage other people's money. Archegos's investment strategy was a continuation of the strategy that Hwang earlier employed through Tiger Asia Management: chiefly, the use of leverage to amplify his investment returns in a small and concentrated pool of stocks using "total return swaps."

87. A "total return swap," or "total rate of return swap," is an off-balance sheet investment tool in which a low-cost borrower with a large global balance sheet (*e.g.*, a large financial institution such as the Conflicted Defendants) offers a higher-cost borrower (such as a hedge fund or family office like Archegos) all the cash flow benefits of owning a security without

actually owning the security.

88. In a total return swap, the payer (prime broker) purchases a security. The investor (hedge fund/family office) receives the total rate of return of that security in exchange for a fee, usually in the form of regular floating rate fee payments pegged to an interest rate such as Libor.

89. At the end of the contract, if there is a decline in the value of the security, the investor must pay the market value difference from the decline to the payer, on top of the fees that the prime broker charged its counterparty for the use of leverage. If the security appreciates in value, the investor receives the difference in value between the original price and the new, higher price.

90. From the swap investor's perspective, the swap is the same as asking the bank to lend it money to buy a stock. The investor pays the interest on the amount of borrowed funds and recoups the profit or loss from the gain or loss of the underlying security (including dividends from the security).

91. The reference asset of the swap position—*i.e.*, the underlying security purchased by the prime broker—does not appear on the balance sheet of the investor. Rather, the investor has a *synthetic* long position based on the performance of the underlying stock. At the maturity of the transaction, the investor may purchase the reference asset at the prevailing market price but is not obligated to do so.

92. Because the reference asset does not appear on the investor's balance sheet, even if the investor amasses a very large position in one or more individual securities, the investor need not file a Form 13F with the SEC or otherwise publicly disclose its ownership of the asset. It is therefore possible for an investor to use total return swaps to mask substantial investment and trading activity and related risk from the investing public, as Archegos did here.

93. Total return swaps provide an opportunity for an investor to use significant leverage to amplify its investment because the investor need only post an initial amount of cash margin collateral for the swap. However, the investment can be far larger than what the investor's cash on hand could purchase.

94. Here, Archegos's total return swaps allowed it to effectively become Viacom's single largest public shareholder—with exposure of approximately $20 billion based on swaps, representing a 34% equity stake in Viacom—without any public disclosure of its position. While the Underwriter Defendants who served as Archegos's prime brokers knew or should have known about Archegos's Viacom stake based on their access to information about Archegos's investments, public investors were in the dark with no way of knowing about the risks that Archegos's Viacom exposure created.

95. Because in a swap transaction the banks purchase the underlying stock and the investor does not, Archegos was able to take long economic positions in securities while avoiding disclosing its significant ownership to the investing public. Because Archegos invested primarily in swaps instead of the underlying securities, Archegos's outsized positions could also drive up the securities' prices while Archegos's positions were concealed from the public. Use of swaps to avoid requirements to disclose large equity positions is a known practice in the investment-banking industry and a source of criticism of total return swaps generally. An April 1, 2021 article in the *Wall Street Journal* described this disclosure-avoidance problem:

> By using swaps, sophisticated investors can sidestep requirements to disclose big stakes in companies. Under Securities and Exchange Commission rules, any person or firm that acquires more than 5% of a company's shares must publicly disclose the stake. Additional disclosure rules apply if the stakes exceed 10%. Large investment firms must also disclose their stockholdings at the end of each quarter, albeit with a 45-day delay.
>
> None of those rules apply if an investor uses swaps to amass the equivalent of a large stake in a publicly traded corporation. That appears to have helped Archegos

stay under the radar until it blew up. Archegos is estimated to have had exposure to the economics of more than 10% of multiple companies' shares.

96. The disclosure rules enable investors to assess a company's exposure to risks posed by highly concentrated investors. For example, under 17 C.F.R. § 240.13d-1(a), any person or entity who "is directly or indirectly the beneficial owner of more than five percent of the class [of equity securities] shall, within 10 days after the acquisition, file with the Commission, a statement containing the information required by Schedule 13D (§ 240.13d–101)." And Section 13(d) of the Securities Exchange Act of 1934 requires any direct owner or indirect beneficial owner of 10% or more of a company's common stock (or other class of equity) to publicly file with the SEC forms (including SEC Forms 3, 4, and 5) disclosing their equity interests.

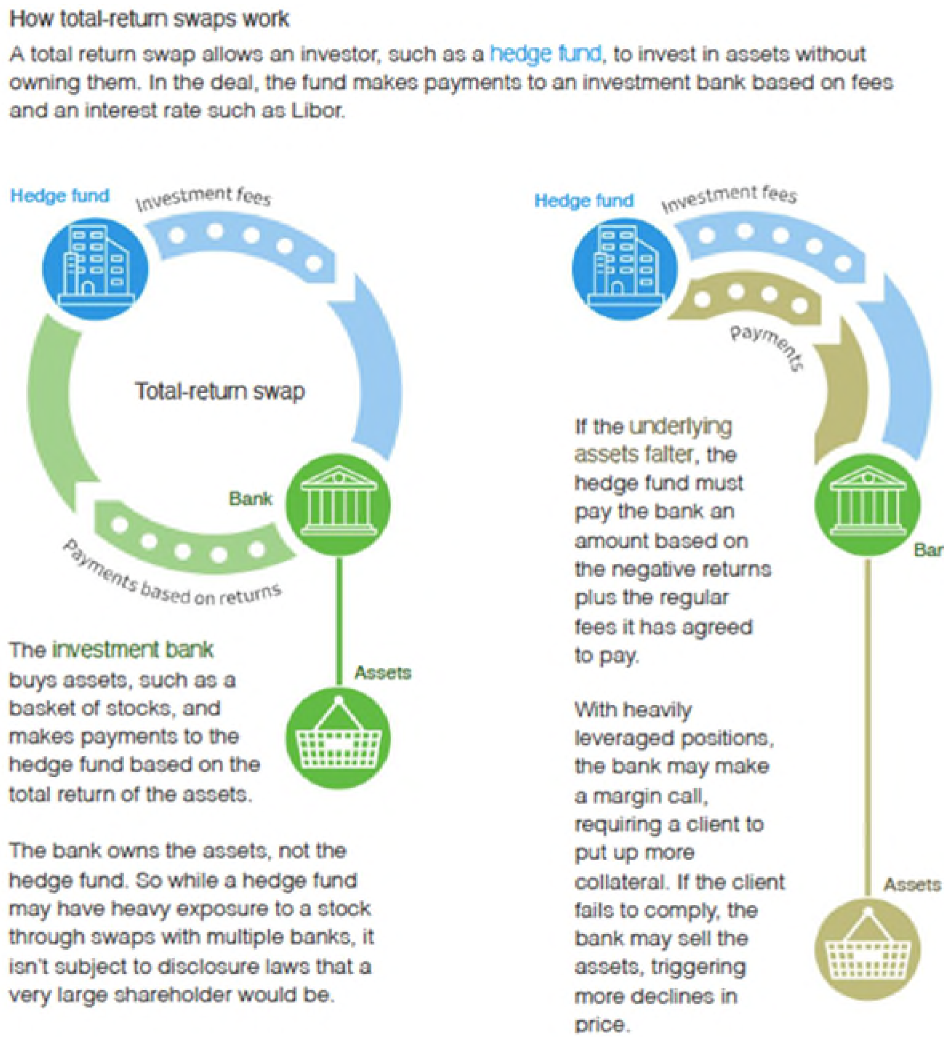
97. Across its prime brokers, Archegos was estimated to have managed approximately $10 billion of its own money. However, due to the leverage provided by its swaps, Archegos amassed exposure to Viacom alone worth roughly double its capital. In total, Archegos's positions represented a total market exposure of approximately $120 billion in notional value of publicly traded securities, or 12 times its capital. Of this, the total value of the positions that would be unwound after Archegos collapsed in March 2021 approached $30 billion.

98. According to a report in the *Wall Street Journal* dated April 4, 2021, Archegos utilized high degrees of leverage, posting $15 of collateral to borrow $85, a nearly 6:1 ratio.

99. Because the prime brokerage owns the securities as collateral for the swap positions, if any of the underlying securities drop in value, the prime broker's collateral drops as well. To avoid that outcome, the prime broker can ask the swap counterparty to post more margin to cover the difference. If the swap counterparty fails to post the margin (or meet the so-called margin call), the prime broker is authorized to sell securities to ensure that the swap counterparty can make good on its leverage, the same way a bank can foreclose on a house if the borrower stops

paying his or her mortgage. However, if the prime brokerage sells the securities at a loss and the investor defaults on its margin calls for additional collateral, the brokerage is at risk of substantial losses.

100. A March 30, 2021 article in the *Wall Street Journal* entitled "What Is a Total Return Swap and How Did Archegos Capital Use It?" described Archegos's total return swaps:



101. In addition to the high degree of leverage maintained by Archegos, its positions were also highly concentrated in single securities, and worse, securities within the same sector, so they all tended to rise or fall together. According to the Paul Weiss Report, by April 2020,

Archegos's top five long positions—of which the largest was Viacom—represented approximately 150% of its net asset value ("NAV"). And as the Paul Weiss Report detailed, Archegos's positions with Credit Suisse were comparable to its positions with its other prime brokers. Among other things, Archegos's long equity swap positions in Viacom stock at Credit Suisse alone were valued at $1.7 billion.

102. The extremely high concentration and leverage inherent in Archegos's prime-brokerage positions amplified both the risks of and potential returns on Archegos's investments. Those investments were accordingly highly sensitive to downward movements in the reference assets' pricing. In fact, Archegos's leverage and concentration levels were so high that the price for one reference asset became intertwined with the others. According to a report in the *Wall Street Journal* dated April 4, 2021, once the market price of one of its large positions dropped and Archegos began selling down its portfolio, that caused the market prices of its other positions to decline as well, an outcome that was foreseeable to Archegos's prime brokers.

103. Archegos's lack of diversification was problematic because, *inter alia*: (1) the subject securities (both those held directly by Archegos and the reference assets underlying its swaps) were highly concentrated in the same sector and thus tended to trade together (or be correlated), so bad news or downward price movement in one could move the price of the others; (2) as Archegos faced margin calls from the drop in one security, it risked having to make large sales of its holdings in the others to meet the margin calls, thus further pressuring the sector; and (3) as the value of its holdings overall fell, additional prime brokers could and did require additional margin, thus forcing even more selling (and price depression) in a negative feedback loop.

104. Viacom was Archegos's single largest long position. According to the Paul Weiss

Report, "[a]s of March 22, 2021, the gross market value of Archegos's Viacom stock holding was approximately $5.1 billion." This translated to approximately 9% of the Company's outstanding Common Stock at the time (not including Archegos's additional, even larger indirect long position in Viacom Common Stock through total return swaps)[4] and barely skirted the 10% disclosure rule intended to inform investors of the Company's exposure to such a highly concentrated investor.

105. When combined with its swap holdings, Archegos had even greater economic exposure to Viacom Common Stock. As an April 3, 2021 article in the *New York Times* that cited people familiar with Hwang reported, Archegos had effectively become the single largest institutional investor in Viacom by mid-March, with total exposure valued at $20 billion. But as detailed in this Complaint, Archegos's enormous effective long positions in Viacom stock through swap transactions were unknown and unknowable to investors in the Offerings.

106. Archegos's concentrated position in Viacom, particularly given its exposure through swap agreements, posed a material risk to the Company's public investors. Archegos's positions were also highly leveraged, including its positions with the Conflicted Defendants. This further increased Archegos's risk profile because the more debt Archegos carried, the smaller hit it would be able to absorb if the banks issued margin calls. Archegos's highly concentrated positions combined with its high leverage at numerous banks was accordingly a recipe for disaster. And as the Paul Weiss Report detailed, the risks posed by Archegos were "conspicuous" to its prime brokers. It should have been readily apparent to the Conflicted Defendants that any volatility in the price of an underlying stock—even slight declines in stock price—within Archegos's highly concentrated swap portfolio could cause Archegos's equity to fall and lead to margin calls and a

[4] Viacom Common Stock closed at $100.34 per share on March 22, and there were approximately 567 million shares in the public float at that time.

liquidation of the underlying securities.

107. As detailed *infra*, with Archegos already in trouble by mid-March, the decline in Viacom's stock price following the announcement of the Offerings led to margin calls from a number of investment banks, which Archegos was unable to pay, and caused the banks to stem their losses by liquidating their Viacom stock held as a hedge against the Archegos swaps, which in turn further drove down the stock price. Moreover, Archegos's failure itself to participate in the Offerings as anticipated triggered the fall of Viacom's stock price and contributed to the chain reaction that damaged Plaintiffs and the other Class members.

C. <u>Viacom Stock Rises Steadily and Substantially in Early 2021</u>

108. On January 4, 2021, the first trading day of the year, Viacom announced an expanded distribution agreement with Hulu. That day, Viacom Common Stock closed at $36.60 per share and began a steady march upward as the market reacted favorably to Viacom's distribution plans. On January 19, 2021, Viacom announced that it would launch its streaming platform Paramount+ by March 4, 2021. On that news, Viacom Common Stock closed at $43.75 and continued to trend upward, closing at $66.14 just over a month later, on February 22, 2021, which was just ahead of Viacom's full-year 2020 earnings release.

109. On February 24, 2021, Viacom announced its comprehensive streaming strategy in conjunction with its 2020 earnings release. In that announcement, Viacom detailed a significant shift in its online streaming strategy to focus on its proprietary platform Paramount+, which would launch on March 4, 2021 with corporate launch sponsors including General Motors, Expedia, and Procter & Gamble.

110. Viacom Common Stock continued its upward momentum following that announcement. On March 22, 2021, Viacom's Common Stock closed at $100.34. According to a report in the *Wall Street Journal* dated March 28, 2021, "ViacomCBS shares had surged 160%

since the start of the year through March 22, with the launch earlier this month of its new Paramount+ streaming service contributing to gains."

D. Major Investment Banks, Including the Conflicted Defendants, Appear to Have Purchased Large Blocks of Viacom Stock to Hedge Archegos's Swaps in the Months Preceding the Offerings, Driving Up the Stock Price

111. Before the Offerings, Archegos had entered into a massive amount of swap agreements with numerous investment banks, including but not limited to the Conflicted Defendants, based on underlying Viacom securities. To hedge the risk associated with those swaps, the banks bought large blocks of Viacom Common Stock (which effectively served as Archegos's collateral), and those large purchases helped drive up the Company's Common Stock price in the months preceding the Offerings. Viacom's Common Stock price climbed from just $36.60 per share on January 4, 2021 to reach $101.97 per share in intraday trading on March 15, 2021, then hovered at around $100 in the days preceding the Offerings, with a closing price of $100.34 on March 22, 2021.

112. Information about the Underwriter Defendants' Viacom holdings, including those specifically related to hedging transactions associated with Archegos's total return swaps, is generally unavailable publicly and, at most, incomplete. However, investment banks are typically required to file quarterly statements with the SEC on Schedule 13F that provide a snapshot of their end-of-quarter holdings in various securities. These forms do not provide any information about the banks' intra-quarter transactions. Nevertheless, the Schedule 13F filings by the Conflicted Defendants and Archegos's other prime brokers show that Archegos's prime brokers substantially increased their Viacom holdings between the third quarter of 2020 and the fourth quarter of 2020, consistent with substantial hedging activity related to Archegos's total return swaps.

113. For example, as of June 30, 2020, Morgan Stanley-affiliated entities[5] held roughly 11.4 million shares of Viacom Common Stock. As of September 30, 2020, Morgan Stanley's reported holdings had grown to roughly 36.1 million shares, as reflected by its Schedule 13F. And as of December 31, 2020, Morgan Stanley's reported holdings had grown further still, to 43.2 million shares (roughly 7.62% of the Company's outstanding Common Stock). By March 31, 2021, however, after the Archegos-related fire sale during the week of March 22, Morgan Stanley reported ownership of just 6 million shares of Viacom's Common Stock, establishing that it was a massive net seller during the same quarter that it was underwriting the Offerings.

114. At the same time, Goldman Sachs similarly increased its ownership of Viacom Common Stock, as reflected by its quarterly Schedule 13Fs, only to substantially decrease its ownership of Viacom stock by March 31, 2021. As of June 30, 2020, investment entities under the umbrella of The Goldman Sachs Group, Inc.[6] reported owning roughly 3.8 million shares of Viacom Common Stock. By September 30, 2020, that figure had grown to nearly 5.8 million shares and peaked at 10.3 million shares by December 31, 2020. By March 31, 2021, however, Goldman Sachs reported holdings of just 7.6 million shares of Viacom's Common Stock, establishing that it was likewise a massive net seller of Viacom during the same quarter that it was underwriting the Offerings.

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[5] The related entities include Morgan Stanley Smith Barney LLC, Morgan Stanley & Co. LLC, Morgan Stanley Capital Services LLC, Morgan Stanley Investment Management Inc., and Morgan Stanley & Co International PLC. Morgan Stanley Capital Services LLC alone owned 38.7 million shares as of December 31, 2020.

[6] The related entities include Goldman Sachs Asset Management L.P., Goldman Sachs & Co. LLC, Goldman Sachs Asset Management Co. Ltd., and Goldman Sachs Asset Management International.

115. Similarly, Wells Fargo-related entities[7] reported owning roughly 2.4 million shares of Viacom Common Stock as of December 31, 2020, which dwindled to 1.74 shares by March 31, 2021.

116. Other major Wall Street firms similarly appear to have increased their ownership of Viacom stock to back their Archegos swaps in the quarters before the Offerings. For example, as of June 30, 2020, Credit Suisse reported owning 13.8 million shares of Viacom Common Stock, which grew to 35.3 million shares by September 30, 2020 and 36.4 million shares by December 31, 2020. As of March 31, 2021, Credit Suisse held 27.4 million shares. As discussed below, Credit Suisse delayed liquidating its Viacom shares until after other Archegos prime brokers conducted block trades of their Viacom and other Archegos-related securities, causing substantial losses to Credit Suisse.

117. Nomura similarly increased its reported holdings from approximately 100,000 shares of Viacom Common Stock as of June 30, 2020 to 1.67 million shares as of September 30, 2020. Over the next quarter, Nomura's holdings increased nearly twelve-fold, reaching 20.5 million shares by December 31, 2020. As of March 31, 2021, Nomura held 19.5 million shares. Nomura delayed liquidating its Viacom shares until after other Archegos prime brokers conducted block trades of their Viacom and other Archegos-related securities, causing substantial losses to Nomura.

118. Deutsche Bank reported holding approximately 2.5 million shares of Viacom Common Stock as of June 30, 2020, increased its holdings to 3.9 million shares by September 30, 2020, and held 5.9 million shares as of December 31, 2020. As of March 31, 2021, Deutsche Bank

[7] The related entities include Wells Fargo Bank NA, Wells Fargo Clearing Services LLC, Wells Fargo Advisors Financial Network LLC, Wells Capital Management Inc., and Wells Fargo Securities LLC.

held 2.8 million shares.

119. UBS held 6.05 million shares of Viacom Common Stock as of June 30, 2020. It more than doubled its position over the next quarter to approximately 15.6 million shares held as of September 30, 2020. By March 31, 2021, UBS reported holdings of only 8.9 million shares.

E. The Conflicted Defendants and Archegos's Other Prime Brokers Were Aware of Archegos's Heavily Leveraged and Concentrated Exposure to Viacom but Ignored the Risks

120. Despite the substantial risks they faced, Archegos's prime brokers had an incentive to engage in large swap transactions with Archegos, because providing services to Archegos generated hefty fees for the banks.

121. A report in the *Financial Times* on March 30, 2021 observed that "fee-hungry investment banks were ravenous for Hwang's trading commissions and desperate to lend him money so he could magnify his bets. Those included taking outsized positions in stocks such as Chinese technology company Baidu and U.S. media giant Viacom." The report further noted that "Hwang was seen as a compelling prospective client by prime brokers, the potentially lucrative but risky division of investment banks that loans cash and securities to hedge funds and processes their trades. Concerns about his reputation and history were offset by a sense of the huge opportunities from dealing with him, according to two of Archegos's prime brokers."

122. And as the April 2, 2021 article in the *Wall Street Journal* noted, "[s]ome former regulators say the fact that banks allowed Archegos's leverage to get so high could be a sign that the banks are stretching their risk appetites into perilous territory."

123. Moreover, the banks engaging in Archegos's swap transactions (and acquiring large blocks of stock to hedge those transactions) were aware that Archegos was transacting similarly with other banks. In providing prime-brokerage services, each of the banks' internal risk-management and other oversight personnel considered the potential risks associated with

Archegos's activities with other banks.

124. The Paul Weiss Report detailed that Archegos's prime-brokerage banks were aware that Archegos had massive amounts of risky exposure across its prime brokers. For example, the Report stated that "Archegos was a 'significant relationship for Prime Services' and the business was 'keenly aware' that Archegos was also doing business with other prime brokers across the Street . . . ." Archegos's other swap counterparties—including the Conflicted Defendants, which served as Underwriters in the Offerings—were or should have been similarly aware that Archegos was likewise doing substantial swap business with its other prime brokers.

125. The Report further stated that "Archegos's long positions with CS were 'indicative' of its positions at the other prime brokers," and the fact that "Archegos maintained similar positions across the Street," among other concerns, "should have sounded alarm bells." The Report further recounted that it was known that Archegos had large swap positions in the same stocks at multiple prime brokers:

> [O]n February 19[, 2021], the CRM [Credit Risk Management] analyst covering Archegos escalated the same concern that the PSR [Prime Services Risk] analyst had elevated to the PSR Head the day before: namely, that Archegos's concentrated positions with CS *were likely also spread across its other prime brokers*. . . . Archegos had told him that, "as they leg in to positions, they ideally prefer to do so pro rata across their core [prime brokerage] providers[.]" . . . *The CRM analyst noted that CS "should assume that [Archegos] potentially ha[d] additional exposure" on the same large, concentrated names "away from [CS]."*

126. The fact that Archegos had concentrated exposure to the same single-name positions across its prime brokers posed substantial counterparty risk to all of the involved investment banks, as declines in the prices of underlying securities could trigger margin calls on Archegos from each of the banks and, if Archegos was unable to meet those calls, each of the banks would seek to reduce its own exposure, such as through liquidations of the underlying securities.

127. The Paul Weiss Report elaborated that Credit Suisse (and presumably Archegos's other counterparty prime brokers) "sees a vertical slice of [Archegos's] book, meaning there are not any hidden names we're unaware of . . . . So names like Viacom, Tencent, Discovery . . . , *if there is an issue, all brokers would be looking to exit simultaneously*," and "if everyone starts increasing [margin rates] simultaneously . . . this could, in theory, force a liquidation."

128. The Paul Weiss Report further revealed that the banks were aware of the other prime brokers' margin requirements for Archegos. For example, in early February 2021, in response to Archegos's "persistent" breaches of Credit Suisse's potential-exposure limits, Credit Suisse's risk-management personnel discussed how much "additional initial margin to request from Archegos," and determined at that time that Archegos would need to increase its existing swap margin by $3 billion (from $1 billion to $4 billion) in order to come into compliance with Credit Suisse's "Prime Brokerage margining rules." Instead of issuing a $3 billion margin call to the highly leveraged Archegos, however, Credit Suisse decided to lower its margin requirements to accommodate Archegos:

> After receiving this news, the Head of PSR [Prime Services Risk] did not pursue this option [of issuing a $3 billion margin call]. Instead, he directed the PSR analyst covering Archegos to develop a separate dynamic margining proposal for Archegos's swaps portfolio using a *more forgiving set of rules that would generate average margins of only 15%.* It appears this direction was motivated by a desire to present Archegos with a dynamic margining proposal that would require a lower day-one step up in initial margin.

129. The Paul Weiss Report further stated that "The PSR [Prime Services Risk] analyst recalls being asked to craft a proposal that would generate margins around 15%. *The Head of PSR recalls telling the PSR analyst that Archegos's swap margins with its other prime brokers ranged from 15-20% and that the proposal should fall within that range to be competitive.*" Thus, Archegos's prime brokers were aware of the margin terms other prime brokers were extending to Archegos.

130. The Paul Weiss Report also discussed how, "[o]ver the course of 2020, Archegos's risk profile increased significantly." Indeed, Archegos's risk profile grew at an alarming rate in 2020 and early 2021. The Paul Weiss Report detailed an "extreme increase in Archegos's NAV [net asset value] over a short period of time (*i.e.*, NAV of $1.5 billion on April 1, 2020, $6 billion on December 1, 2020, and $8.1 billion on January 1, 2021)" as well as "Archegos's substantial increase in leverage (from 'historical levels of 3-4x to 6x')."

131. Moreover, the risk posed by Archegos's highly concentrated positions began to materialize in early- to mid-March. As the *Wall Street Journal* reported on March 29, 2021:

> Mr. Hwang's strategy began backfiring in recent weeks as the stock price of companies Archegos had significant exposure to, including in China Internet search giant Baidu Inc. and Farfetch, began to sell off. Baidu's stock price rose sharply in February, but by mid-March, its shares had dropped more than 20% from its highs.
>
> Farfetch's stock followed a similar trajectory, dropping more than 15% off its February highs by March.
>
> *The announcement of additional financing by ViacomCBS early last week put further stress on Archegos,* said people familiar with the matter, with news of the deal sparking a slide in the shares and adding to Archegos's mounting losses. The fund by that time had started selling some of its position in ViacomCBS to try to offset its losses, adding to pressure on the stock.

132. By March 2021, Archegos was teetering on the precipice of disaster. The Paul Weiss Report noted that by March 8, 2021—with respect to Archegos's precarious position at Credit Suisse alone—"the risk dimensions of the portfolio had significantly worsened":

> Archegos's gross notional swap exposure had skyrocketed to $21 billion . . . and was net long biased by $7.3 billion . . . , with "aggressive" margins averaging 8-9%, and single-issuer concentrations representing more than 8% of the outstanding float and the top five issuers representing 3-7 days' trading volume, meaning it would take "much longer" to liquidate the positions.

133. The Paul Weiss Report further detailed the impact of the announcement of the Viacom Offerings on an already stressed Archegos:

> The market value of Archegos's portfolio—and thus the balance of variation margin—shifted precipitously during the week of March 22, 2021. ViacomCBS stock—Archegos's single largest long position—declined significantly in value, dropping 6.7% on March 22 alone and continuing to plummet throughout the week. This decline was precipitated, at least in part, by ViacomCBS's announcement on March 22 that it would be offering $2 billion of its Class B common stock and $1 billion of its Mandatory Convertible Preferred Stock—and the apparent lack of interest in that offering.

F. The Underwriter Defendants Underwrote the Offerings at Inflated Prices, While the Conflicted Defendants Dumped Their Own Viacom Shares to Avoid Their Own Massive Losses

134. In shockingly short order: Viacom announced the Offerings; declines in Viacom's stock price triggered margin calls on Archegos that it could not meet; Defendants priced the Offerings at inflated prices; and the Offerings closed as the Conflicted Defendants were conducting massive block sales of Viacom securities at fire-sale prices. As the Paul Weiss Report discussed, and as alleged further below:

> During the week of March 22, 2021, the market value of Archegos's portfolio with CS and with its other prime brokers across the Street dropped precipitously, largely driven by declines in certain single-name tech stocks—*most notably ViacomCBS*—to which Archegos had significant, leveraged exposure. The steep decline in the value of its positions triggered a chain reaction that led to Archegos's default[.]

1. March 22: Viacom Announces $3 Billion of Securities Offerings

135. According to the Paul Weiss Report, as of March 22, 2021, the gross market value of Archegos's Viacom stock holding, its largest holding, was approximately $5.1 billion at Credit Suisse alone, with total exposure to Viacom stock of approximately $20 billion via swaps.[8] As

[8] On information and belief, $5.1 billion represents Archegos's direct holdings of Viacom Common Stock at Credit Suisse alone. On March 22, 2021, Viacom's market capitalization was $62.38 billion at market close. News reports indicate that Archegos's total exposure to Viacom Common Stock (including indirectly through swaps as well as directly through ownership of shares) represented approximately 34% of the Company's capitalization, making Archegos the single largest stakeholder in the Company. This would place Archegos's total exposure to Viacom Common Stock equal to $21.2 billion on March 22, 2021, over four times the value stated in the Credit Suisse report.

detailed above, Archegos's extremely leveraged long position in Viacom was particularly sensitive to pressure from even slight declines in Viacom's stock price.

136. At 4:17 p.m. ET on Monday, March 22, 2021, just before the market closed, Viacom announced that it would conduct the Offerings of $2.0 billion worth of Common Stock and $1.0 billion of Preferred Stock. Viacom's announcement stated that "Morgan Stanley and J.P. Morgan are acting as joint book-running managers for the Offerings" and directed investors to Morgan Stanley and J.P. Morgan for further information, including the preliminary prospectus supplements for the Offerings. On information and belief, Morgan Stanley and J.P. Morgan, on behalf of all of the Underwriter Defendants, reviewed and approved Viacom's announcement before it was issued.

137. At approximately 5:15 p.m. ET on March 22, 2021, Viacom filed the preliminary prospectus supplements for the Offerings with the SEC. The preliminary prospectus supplements were dated that day and again identified Morgan Stanley and J.P. Morgan as joint book-running managers for the Offerings. Viacom's March 22, 2021 announcement and the preliminary prospectus supplements also stated that the purpose of the Offerings was to raise capital for Viacom to invest in its Paramount+ streaming service.

138. Viacom's March 22, 2021 announcement and the preliminary prospectus supplements also stated that Viacom had granted the underwriters separate 30-day options to purchase up to an additional $300,000,000 of Common Stock and up to an additional $150,000,000 of Preferred Stock, which in the case of the Preferred Offering would be solely to cover over-allotments.

139. Under Item 508(*l*)(1) of Regulation S-K, 17 C.F.R. § 229.508(*l*)(1), the Underwriter Defendants were required to "briefly describe any transaction that the underwriter intends to

conduct during the offering that stabilizes, maintains, or otherwise affects the market price of the offered securities." Further, this disclosure must "[i]include information on . . . any other transaction that affects the offered security's price" and "[d]escribe the nature of the transactions clearly and explain how the transactions affect the market on which these transactions may occur." At no time (including when the prospectus supplements for the Offerings became effective as portions of the Registration Statement), however, did the Offering Materials disclose that: (i) the Conflicted Defendants held massive positions in Viacom stock to hedge their total return swaps with Archegos; and (ii) that Archegos's extremely leveraged, massive position in Viacom and inability to meet margin calls meant that a fire sale of the Conflicted Defendants' Viacom positions was imminent, and such large-scale sales would cause a precipitous decline in the prices of Viacom's securities issued in the Offerings.

140. In addition, the preliminary prospectus supplements contained statements about the terms of the underwriting, which were later repeated in the final prospectus supplements and were part of the Offering Materials at the time they became effective. Among other things, the preliminary prospectus supplements stated that "the underwriters may engage in transactions that stabilize, maintain or otherwise affect the price[s]" of the offered securities; that the underwriters might establish short positions by selling more securities than were included in the Offerings and then cover those positions either by exercising the options to purchase additional securities from Viacom or by "purchasing shares in the open market"; and that the underwriters might also "bid for, and purchase, shares of [the offered securities] in the open market to stabilize the price[s]" of the offered securities.

141. The statements summarized in ¶ 138 concerning the underwriters' options to purchase additional securities from Viacom and in ¶ 140 concerning the possibility that the

underwriters would purchase additional Viacom securities in the open market to cover short positions or to stabilize the securities' prices were materially false and misleading when the Offering Materials became effective.

142. Contrary to their statements in the preliminary prospectus supplements and their obligations under Item 508, the Conflicted Defendants did not disclose that (i) they held massive positions in Viacom stock to hedge their total return swaps with Archegos; (ii) Archegos's extremely leveraged, massive position in Viacom and inability to meet margin calls meant that a fire sale of the Conflicted Defendants' Viacom positions was imminent and these large-scale sales would cause a precipitous decline in the prices of Viacom's securities issued in the Offerings; (iii) as a result, there was no realistic possibility that the Underwriter Defendants would exercise the overallotment options to acquire and sell even more Viacom securities; and (iv) also as a result, there was no realistic possibility that the Underwriter Defendants would purchase Viacom securities in the open market either to cover short positions or to stabilize the securities' prices. None of these material facts were disclosed to the investors to whom the Underwriter Defendants were offering and selling the securities in the Offerings.

143. As alleged in more detail in ¶¶ 206-19, information about both the underwriting of the Offerings and the imminent fire sale of Viacom and other Archegos-related securities was known to senior executives at the Conflicted Defendants early during the week of March 22, 2021, while the Offerings were in process and before they closed. Those senior executives had responsibility for both the underwriting of the Offerings and their banks' handling of Archegos's collapse. They could properly have either disclosed the true facts about their banks' fire sales of Viacom securities to investors in the Offering Materials or postponed the Offerings until after the fire sales were completed. They instead chose illegitimately to conduct the fire sales secretly and

simultaneously complete the Offerings based on materially false and misleading Offering Materials, thus avoiding enormous losses for themselves and inflicting enormous losses on the investors who purchased Viacom securities in the Offerings.

2. March 23: The Announcement of the Offerings Causes Viacom's Stock Price to Drop, Triggering Margin Calls on Archegos

144. On Tuesday, March 23, 2021, Viacom's Common Stock price dropped to close at $91.25 per share. This initial drop, which analysts attributed to the dilution in Viacom's public float that the Offerings created, was expected. For example, Barclays' analysts reported on March 23, 2021 that "[y]esterday, ViacomCBS . . . announced the issuance of $2bn in equity and $1bn in mandatory convertible bonds [sic] which we believe is the right move strategically to build some balance sheet cushion to invest in streaming, especially given the company's weak cash flow position. An issuance anywhere close to the present stock price is likely to cause relatively small dilution."

145. A March 28, 2021 article in the *Wall Street Journal* noted that the announcement of the Offerings by Viacom put pressure on Archegos, which then started selling its positions in Viacom to offset losses, further adding increasing downward pressure on the stock. According to an April 1, 2021 report in the *Wall Street Journal*, a large Archegos position "on Monday of last week" (*i.e.*, March 22, 2021), which on information and belief was Viacom, "dropped and Archegos began selling down its portfolio, causing other positions to also decline, resulting in margin calls."

3. March 24: Defendants Price the Offerings and the Conflicted Defendants Issue Billions of Dollars of Margin Calls on Archegos, Which Cannot Pay

146. At 7:00 a.m. ET on Wednesday, March 24, 2021, before the opening of the market, Viacom announced the pricing of the Offerings, specifically that the Common Stock would be

offered at $85.00 per share and the Preferred Stock at $100.00 per share. Viacom's March 24, 2021 announcement identified all Defendants except U.S. Bancorp and ICBC Standard Bank as underwriters of both Offerings, identified U.S. Bancorp and ICBC Standard Bank as underwriters of the Preferred Offering, and referred investors to Morgan Stanley and J.P. Morgan for further information, including the preliminary prospectus supplements for the Offerings. On information and belief, the Underwriter Defendants reviewed and approved Viacom's March 24 announcement before it was issued.

147. Viacom's March 24, 2021 announcement again stated that Viacom had granted the Underwriter Defendants an option to purchase additional securities in each Offering. The announcement of the options was materially misleading because Morgan Stanley, Goldman Sachs, and the other Conflicted Defendant underwriters that were also prime brokers for Archegos already knew (i) that they held massive positions in Viacom stock to hedge their total return swaps with Archegos; (ii) that Archegos's extremely leveraged, massive position in Viacom meant that a fire sale of the Conflicted Defendants' Viacom positions was imminent; and (iii) that, as a result, there was no realistic possibility that the Underwriter Defendants would exercise the overallotment options to acquire and sell even more Viacom securities.

148. The prospectus supplements for the Offerings were dated March 23, indicating that Viacom and the Underwriter Defendants agreed on the pricing on March 23. The March 23 prospectus date and the announcement of the pricing on March 24 mean that most investors who purchased in the Offerings placed orders on March 23 or March 24 to close on Friday, March 26.

149. Viacom's Common Stock price fell $21.15 per share, or more than 23%, from a close of $91.25 per share on March 23, 2021 to a close of just $70.10 on March 24, 2021. Viacom's Preferred Stock price fell $14.00 per share in its first day of "when issued" trading, or 14%, to

close at $86.00 per share on March 24, 2021.[9]

150. These declines were attributed to the "apparent lack of interest" in the Offerings, as noted by the Paul Weiss Report, and specifically Archegos's "lack of interest," as reported by the *New York Times*. According to an April 2, 2021 article in the *New York Times*, the Underwriter Defendants had been "counting on Mr. Hwang to be the anchor investor who would buy at least $300 million of the shares, four people involved with the offering said." However, after the Offerings were announced but before they were completed, Archegos reportedly "changed plans" and did not buy any shares in either Offering, which the *New York Times* reported "caused the ViacomCBS fund-raising effort to end with $2.65 billion in new capital, significantly short of the original target." On information and belief, Morgan Stanley, as lead book-running manager for the Offerings, informed Viacom that Archegos had decided not to buy any shares in the Offerings, contrary to the Underwriter Defendants' prior expectation that had been communicated to the Company.

151. Meanwhile, the margin calls to Archegos and collateral sales by its prime brokers continued while the Offerings' closing was pending. According to the Paul Weiss Report, on March 24, 2021, Credit Suisse determined that it would have to make a margin call on Archegos of over $2.5 billion on March 25. However, Archegos's CFO informed Credit Suisse that evening that Archegos no longer had the liquidity to meet Credit Suisse's forthcoming margin call or any other margin calls from its other prime brokers, as all Archegos's unencumbered cash had already been used up on margin calls from other prime brokers earlier that week. The Paul Weiss Report further detailed that Archegos's excess margin at Credit Suisse, which was $606 million on March

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[9] When a newly issued series of securities is first publicly offered, investors are able to trade the securities on a "when issued" basis starting at the time of the offering's pricing, for settlement when the offering closes.

23, was by March 24 "wiped out by market movements and Archegos owed CS $177M of variation margin."

4. March 25: Archegos Informs the Conflicted Defendants It Cannot Meet the Margin Calls as They Begin Their Fire Sale of Billions of Dollars of Archegos-Related Securities

152. On the morning of March 25, 2021, Credit Suisse issued two margin calls on Archegos for a total of over $2.8 billion. As the Paul Weiss Report detailed, however, on a 12:30 p.m. ET call that day, Archegos informed key Credit Suisse Credit Risk Management and Prime Services Risk personnel that it would not meet its margin calls that day, and that the remaining unencumbered cash Archegos had been holding "had been used up on margin calls from other prime brokers." Archegos told Credit Suisse that it would need to "carefully liquidate positions in order to not tip the market." On information and belief, Archegos likewise communicated to its other prime brokers, including Morgan Stanley, Goldman Sachs, Wells Fargo Securities, BNP Paribas, and Mitsubishi UFJ, that it did not have available cash to meet further margin calls and believed a rapid, uncoordinated liquidation of Archegos's investments threatened to "tip the market."

153. On March 25, with Archegos unable to meet the banks' margin calls and the banks focused on avoiding their own material losses, Archegos's prime brokers began to rapidly shed their Archegos-related securities. That day, Morgan Stanley sold $5 billion of its Archegos-related holdings.

154. Deutsche Bank, which as detailed above had sold its prime brokerage to Defendant BNP Paribas and was managing the business for BNP Paribas while transitioning its prime-brokerage personnel, accounts, and systems to BNP Paribas, reportedly brokered a $4 billion private deal on March 25 to sell its Archegos-related positions. By the time of the Offerings, BNP Paribas had made substantial progress in integrating the Deutsche Bank prime-brokerage business,

including implementing the "Fast Start" client program, which enabled prime-brokerage clients such as Archegos to face BNP Paribas as their prime broker while executing through Deutsche Bank's electronic equities technology. As alleged in ¶ 32, Deutsche Bank worked "collaboratively" and in "partnership" with BNP Paribas in responding to the Archegos collapse.

155. Viacom Common Stock closed at $66.35 on March 25, the day before the Offerings were to close.

156. At approximately 5:30 p.m. ET on March 25, Viacom filed the final prospectus supplements for the Offerings, dated March 23. The final prospectus supplements failed to disclose the information required by Item 508. They also contained substantially identical statements about the terms of the underwriting as those in the preliminary prospectus supplements set forth in ¶¶ 138 and 140, and those statements were materially false and misleading for the reasons provided in ¶¶ 141-42.

157. According to the Paul Weiss Report and other public reporting, on the evening of March 25, 2021, Archegos held a call with its prime brokers (*i.e.*, among others, Conflicted Defendants Morgan Stanley, Goldman Sachs, Wells Fargo Securities, Deutsche Bank/BNP Paribas, and Mitsubishi UFJ), and notified them that it had only between $9 and $10 billion in equity—a decrease of approximately $10 billion from the previous day—and faced $120 billion in exposure and could not meet its margin calls. Archegos requested that the prime brokers enter into a standstill agreement while Archegos unwound its positions, which would have forestalled or mitigated the large declines in Viacom's and other companies' securities prices that were inevitable if the banks acted independently and sold off Archegos's securities collateral in the market, as they did. The prime brokers declined.

158. According to an April 1, 2021 article in the *Wall Street Journal*, after Archegos left

the March 25 call, Credit Suisse and Nomura suggested that the prime brokerages work together over a month to unwind Archegos's trades, but Goldman Sachs and Morgan Stanley refused. According to this article, "as stocks in [Archegos's] portfolio remained pressured, it didn't have additional funds to provide its lenders. That forced the banks to sell Archegos's collateral holdings even as they were falling, exacerbating the selloff." The ensuing cascade of selloffs continued to drive Viacom's Common and Preferred Stock prices down.

159. A March 30, 2021 *Financial Times* report corroborated the *Wall Street Journal* article, stating that Goldman Sachs, Morgan Stanley, Credit Suisse, UBS, and Nomura discussed an orderly wind-down of Archegos positions that would minimize the market impact. According to the *Financial Times*, the banks did not agree on a plan for an orderly sell-off, and certain banks instead rapidly sold off Archegos-related securities to avoid their own losses.

160. An April 6, 2021 report by CNBC further detailed the "unprecedented wave of tens of billions of dollars in sales by Morgan Stanley and other investment banks" occurring at that time, including Morgan Stanley's March 25 block sales of Archegos-related securities. Those block sales enabled Morgan Stanley to avoid the massive losses the bank knew it faced due to Archegos's collapse and the banks' imminent liquidations of Archegos's collateral, which would necessarily crater the prices of the securities to which Archegos was exposed (including Viacom). CNBC reported:

> [Archegos's] biggest prime broker quietly unloaded some of its risky positions to hedge funds, people with knowledge of the trades told CNBC.
>
> *Morgan Stanley sold about $5 billion in shares from Archegos' doomed bets on U.S. media and Chinese tech names to a small group of hedge funds late Thursday*, March 25, according to the people, who requested anonymity to speak frankly about the transaction.
>
> It's a previously unreported detail that shows the extraordinary steps some banks took to protect themselves from incurring losses from a client's meltdown. The moves benefited Morgan Stanley, the world's biggest equities trading shop, and its

> shareholders. While the bank escaped from the episode without material losses, other firms were less fortunate. . . .
>
> Morgan Stanley had the consent of Archegos, run by former Tiger Management analyst Bill Hwang, to shop around its stock late Thursday, these people said. The bank offered the shares at a discount, telling the hedge funds that they were part of a margin call that could prevent the collapse of an unnamed client.
>
> *But the investment bank had information it didn't share with the stock buyers*: The basket of shares it was selling, comprised of eight or so names including Baidu and Tencent Music, was merely *the opening salvo of an unprecedented wave of tens of billions of dollars in sales by Morgan Stanley and other investment banks* starting the very next day. . . .
>
> That means that at least some *bankers at Morgan Stanley knew the extent of the selling that was likely and that Hwang's firm was unlikely to be saved*, these people contend. *That knowledge helped Morgan Stanley and rival Goldman Sachs avoid losses because the firms quickly disposed of shares tied to Archegos*. . . .
>
> "I think it was an 'oh s---' moment where Morgan was looking at potentially $10 billion in losses on their book alone, and they had to move risk fast," the person with knowledge said.

5. March 26-28: The Offerings Close at Inflated Prices as the Conflicted Defendants Continue Their Fire Sales of Viacom Stock

161. On Friday, March 26, 2021, the Offerings closed.

162. Simultaneously with the closing of the Offerings, the Conflicted Defendants continued their fire sale of Archegos-related securities, including Viacom. On March 26, Goldman Sachs reportedly made block sales of an additional $10 billion of its Archegos positions. Goldman Sachs sent out a client email pitching block sales of shares in Viacom, along with four other stocks in which Archegos was heavily invested. That email informed hedge funds that Goldman Sachs was selling large blocks of stock as a result of the involuntary deleveraging of a fund. Goldman Sachs would "give priority to customers who could buy as much stock as possible or several blocks of stock in different companies." According to CNBC, Goldman Sachs managed to sell most of the stock related to Archegos margin calls on March 26, helping Goldman Sachs avoid losses in the episode. Among other sales, Goldman Sachs reportedly sold 35 million shares of Viacom at

midday on March 26—just two days after the announcement of the pricing of the Offerings—at a price of $48 per share, a 44% discount to the Offering price, for a total of approximately $1.7 billion. By contrast, Goldman Sachs sold 646,000 shares in the Common Offering. In other words, Goldman Sachs sold 54 times as many shares in its Archegos fire sale as it did in the Offering itself.

163. Morgan Stanley reportedly also marketed blocks of stock in multiple companies on March 26, simultaneous with the closing of the Offerings. Morgan Stanley reportedly sold $3.9 billion of Viacom, Discovery, and Farfetch, among others, on March 26.

164. Goldman Sachs and Morgan Stanley reportedly each sold multiple blocks of stock in the same companies at different times on March 26, as the companies' stock prices continued to decline, upsetting investors who bought at the earlier, higher prices. These two Defendants reportedly sold a total of $19 billion of Archegos-related securities on March 26 alone.

165. A Bloomberg report on March 29, 2021, discussed how these massive block trades, some of which exceeded $1 billion (even accounting for the fire sale prices at which the banks sold the securities), were aberrant because the trades occurred during normal trading hours. Because large block trades are usually conducted outside normal trading hours, the prime brokers' offloading of Archegos-related securities during normal trading hours on March 26 unnerved investors and put further downward pressure on Viacom's share price.

166. On March 26, 2021, Viacom Common Stock closed at $48.23, a 27% single day decline, the stock's largest decrease going back to at least 1990. The fire sale of Viacom caused so much volatility that NASDAQ temporarily halted trading of Viacom Common Stock three separate times on March 26.

167. Several of the Defendant banks continued to discuss the Viacom fire sale over that

weekend, as Archegos's prime brokers continued to race to avoid their own material losses. According to the Paul Weiss Report, "Archegos and its prime brokers, including [Credit Suisse], Morgan Stanley, Goldman, Nomura, UBS, Wells Fargo, and Deutsche Bank had another call on Saturday, March 27. On that call, Archegos again tried to orchestrate a forbearance agreement with its lenders, whereby Archegos would manage liquidating its positions rather than leaving each bank to do so individually." Archegos then left the call, leaving senior representatives of the banks, including their general counsels and outside legal counsel, to discuss next steps. As the Paul Weiss Report stated, "several banks including Deutsche Bank, Morgan Stanley, and Goldman determined that they were not interested in participating in a managed liquidation," meaning that each would rush to shed Archegos-related shares on its own.

168. Conflicted Defendants Morgan Stanley, Goldman Sachs, Wells Fargo Securities, BNP Paribas, and MUFG Securities (through its affiliate Mitsubishi UFJ) were engaged in these massive block trades, which mitigated their own losses while dramatically driving down Viacom's share prices, on the days before the Offerings that they underwrote closed, on the very day those Offerings closed, and in the days that followed. What is more, these large block trades sold volumes of shares that were several multiples of the volume the Conflicted Defendants sold in the Offerings. For example, the March 30, 2021 article in the *Wall Street Journal* reported that Morgan Stanley sold 45 million shares of Viacom on Sunday, March 28, 2021 (which Bloomberg reported were priced at $46.00-$47.00 per share, for a total of approximately $2.1 billion), in private block sales—*five times the number of common shares Morgan Stanley sold as lead bookrunner in the Offerings.*

6. March 29: The Conflicted Defendants Continue Their Fire Sales

169. On Monday, March 29, 2021, Wells Fargo Securities told its clients that it had continued selling off Viacom shares that day—and had unwound all of its Archegos exposure

without the bank suffering any losses. Similarly, Goldman Sachs announced on March 29, 2021, that any losses it anticipated relating to Archegos would be "immaterial" due to its loans being fully collateralized and its being "first to begin reducing exposure."

170. Although Archegos's prime brokers, including Conflicted Defendants Morgan Stanley, Goldman Sachs, Wells Fargo Securities, BNP Paribas (after acquiring the Deutsche Bank prime-brokerage business), and Mitsubishi Securities Americas (through Mitsubishi UFJ) largely mitigated their own material losses, Plaintiffs and the Class who participated in the Offerings suffered further damages. On Monday, March 29, 2021, Viacom's Common Stock price had fallen to $45.01 per share by market close.

171. Market observers were stunned by the Conflicted Defendants' liquidations of Viacom securities. As Bloomberg reported, "[w]hat was abnormal about the trades Friday was their size—some of the chunks exceeded $1 billion . . . . Sizeable block trades—especially those done at a discount to the market price—are always unnerving for investors, especially when the seller isn't clear. Put simply, the fear is that someone else somewhere knows something bad that you don't." CNBC similarly reported, "[w]hile certain bankers at Morgan Stanley and Goldman Sachs were pitching [the Offerings] to investors, some of their peers in the prime brokerage division were growing increasingly concerned about the risk profile of . . . Archegos, which had large, leveraged exposure to ViacomCBS." And according to Bloomberg, "[w]hat's clear, according to people involved in the margin call and what followed, is that Hwang's financiers, the prime-brokerage units of . . . *Goldman Sachs Group Inc., Morgan Stanley, . . . and others, had clues about what Archegos was doing*."

G. The Underwriter Defendants Priced the Offerings Above Market Value, <u>Omitting Required Disclosures</u>

172. As underwriters of the Offerings, the Underwriter Defendants were integrally

involved with setting the pricing of the Offerings. The Offering Materials make clear that the Underwriter Defendants were primarily responsible for determining those prices: the March 24, 2021 prospectus supplements for both the Common Offering and the Preferred Offering stated that "[t]he underwriters initially propose to offer" the securities "at the offering price listed on the cover page of this prospectus supplement."

173. The price-related disclosures in public offering documents are important to investors because investors reasonably understand that underwriters price public offerings at a level that is reasonably likely to be sustained in the aftermarket. In underwriting a public offering of securities, the lead manager—here, Morgan Stanley—is primarily responsible for pricing the offering, with assistance in price discovery from the co-managers (including Goldman Sachs and the other Underwriter Defendants here). The offering price is set by agreement between the lead underwriter and the issuer just before they finalize the underwriting agreement and final prospectus, which contain the offering price.

174. Underwriters typically set the offering price for "seasoned equity offerings" or "follow-on" offerings (such as the Offerings here) below the "clearing price" at which investor demand is equal to the supply of new securities, in an effort to cause the offering to be oversubscribed, generate aftermarket buying demand, and help maintain the aftermarket price above the offering price. In other words, unlike an initial public offering, in which pricing generally reflects the price at which the company seeks to sell shares, pricing of follow-on offerings is market driven. Thus, investors in a follow-on offering reasonably understand that the underwriters' normal pricing practices provide reasonable protection against further significant offering-related declines in the market price below the offering price after the offering closes.

175. When information available to the underwriters suggests a weaker price than the

issuer and the underwriters initially expected, the underwriters and the issuer may agree to lower the offering price. Besides revising the price, the issuer and the underwriter may also decide to reduce the offering size.

176. Here, accordingly, the Defendants led public investors to believe that the $85.00 per-share price that the Underwriter Defendants and Viacom set for the Common Offering and the $100.00 per-share price that these Defendants set for the Preferred Offering accurately reflected the true market value of, and interest in, the Viacom securities being offered. But when the Underwriter Defendants and Viacom set those prices, through and beyond when the Offerings closed, the Conflicted Defendants knew or should have known that the market prices of those securities would plummet as Archegos imploded and its prime brokers rushed to liquidate their Viacom and other Archegos-related holdings. Given that knowledge, the Underwriter Defendants and Viacom should have, but did not, downwardly revise the pricing of the Offerings.

177. Moreover, governing SEC regulations underscore Defendants' obligations with regard to pricing and attendant requisite disclosures. Under Item 505(a) of SEC Regulation S-K, "Where common equity is being registered" and "there is a material disparity between the offering price of the common equity being registered and the market price of outstanding shares of the same class," the offering documents must "describe the various factors considered in determining such offering price."

178. Defendants failed to comply with their Item 505 disclosure obligations. At the time pricing was set for the Offerings, and through the time the Offerings closed, there was a clear and growing "material disparity" between the $85.00 offering price of Viacom Common Stock and the market price of Viacom Common Shares. Investors reasonably understand that secondary offerings are priced at a small discount to the pre-offering market price of the securities to account

for the effect of dilution caused by the issuance of additional shares. However, the Offering Materials did not disclose critical "factors" pertinent to "determining [the] offering price" that were known to the Underwriter Defendants: Viacom stock had begun a rapid and steep decline that was caused not only by the normal dilution from the Common Offering but also by investors' limited demand for the Offerings (including Archegos's inability to purchase $300 million of the Offerings as previously expected by the Underwriter Defendants and Viacom), and that decline would be accelerated by the large block sales the Conflicted Defendants were already organizing in response to Archegos's failure to meet the massive margin calls related to Viacom Common Stock that those Defendants had issued. Thus, the Offering Materials' disclosures about pricing were materially incomplete and misleading.

H. Materially False and Misleading Statements and Omissions in the Offering Materials

179. The Offering Materials were filed with the SEC on March 25, 2021. At the time they became effective, they contained material omissions of information that was required to be disclosed and untrue statements of material fact, omitted to state other facts necessary to make the statements made not misleading, and were not prepared in accordance with the rules and regulations governing their preparation.

180. Moreover, the Underwriter Defendants and Viacom had a separate duty both legally and contractually to correct the Offering Materials if they became inaccurate by the time the Offerings closed on Friday, March 26, 2021—the same day the Conflicted Defendants were executing their fire sale of Viacom securities in the wake of Archegos's collapse and failure to meet margin calls. In the underwriting agreements for the Offerings, Viacom represented to the Underwriter Defendants that the Offering Materials were accurate and complete as of their date (March 23) and would be accurate and complete as of the closing date (March 26), except that

Viacom made no representation concerning the accuracy and completeness of the information provided by the Underwriter Defendants for inclusion in the Offering Materials. The underwriting agreements required Viacom, at the closing, to deliver an officers' certificate to the Underwriter Defendants confirming the accuracy of this representation as of that time as a condition precedent to the Underwriter Defendants' obligation to purchase the Common Stock and Preferred Stock and close the Offerings. Thus, the Underwriter Defendants and Viacom were obligated to ensure the Offering Materials were complete and accurate both as of their date and at the March 26 closing, and understood that the Offerings should not close if that were not the case.

181. The Underwriter Defendants—as underwriters of the Offerings—were subject to a host of regulations that required specified disclosures to be included in the Offering Materials. The Underwriter Defendants failed to make these disclosures, which rendered the Offering Materials materially misleading.

182. Under the instructions to Form S-3, the Underwriter Defendants were required to comply with Item 508(*l*)(1) of Regulation S-K, 17 C.F.R. § 229.508(l)(1), which required the Offering Materials to "briefly describe any transaction that the underwriter intends to conduct during the offering that stabilizes, maintains, or otherwise affects the market price of the offered securities." Further, this disclosure must "[i]include information on . . . any other transaction that affects the offered security's price" and "[d]escribe the nature of the transactions clearly and explain how the transactions affect the market on which these transactions may occur."

183. In violation of this requirement, the Offering Materials failed to disclose that at the time the Offering Materials became effective, Archegos had already failed to meet margin calls by the Conflicted Defendants; the Conflicted Defendants were therefore arranging imminent, massive block sales of Viacom Common Stock; and those block sales would inevitably crater the market

prices of both the Common Stock and the convertible Preferred Stock, driving them far below the Offering prices.

184. Rule 408 of SEC Regulation C requires that "[i]n addition to the information expressly required to be included in a registration statement, there shall be added such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading." 17 C.F.R. § 230.408(a).

185. In violation of this rule, the Offering Materials contained misrepresentations of material fact and failed to disclose material information that was necessary to make the statements made in the Offering Materials not misleading.

186. In the "Underwriting" section of the Offering Materials, the Underwriter Defendants included a description of their possible transactions in Viacom securities:

> In order to facilitate the offering of the Class B common stock, *the underwriters may engage in transactions that stabilize, maintain or otherwise affect the price of the Class B common stock.* Specifically, the underwriters may sell more shares than they are obligated to purchase under the underwriting agreement, creating a short position. A short sale is covered if the short position is no greater than the number of shares available for purchase by the underwriters under the [overallotment] option. The underwriters can close out a covered short sale by exercising the option or purchasing shares in the open market. In determining the source of shares to close out a covered short sale, the underwriters will consider, among other things, the open market price of shares compared to the price available under the option. The underwriters may also sell shares in excess of the option, creating a naked short position. The underwriters must close out any naked short position by purchasing shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the common stock in the open market after pricing that could adversely affect investors who purchase in this offering. As an additional means of facilitating this offering, the underwriters may bid for, and purchase, shares of common stock in the open market to stabilize the price of the common stock. *These activities may raise or maintain the market price of the common stock above independent market levels or prevent or retard a decline in the market price of the common stock.* The underwriters are not required to engage in these activities and may end any of these activities at any time. Such stabilization shall be in accordance with Regulation M.

A substantially identical description of the Underwriter Defendants' possible transactions in

Viacom securities was also included in the Offering Materials for the Preferred Offering.

187. The statements quoted in ¶ 186 were materially untrue and omitted material facts necessary to make them not misleading. It was misleading to state in a purely boilerplate disclosure that the Underwriter Defendants "may" engage in "transactions that . . . otherwise affect the price" of the offered securities, while omitting that, in fact, the Conflicted Defendants were already planning imminent, massive block sales of Viacom securities at fire-sale prices that would decimate the market prices of the Viacom securities offered in the Offerings. To the extent that the quoted language discusses the overallotment option, as discussed in ¶ 141-42, the Offering Materials' disclosures about the overallotment option were materially untrue and misleading.

188. In addition, it was false or misleading to represent that the Underwriter Defendants might "bid for, and purchase, shares of [Viacom securities] in the open market" either to cover short sales or to stabilize the price of the securities. Before the Offerings closed, it was already a foregone conclusion that the Underwriter Defendants would not purchase any shares in the open market. Rather, the Conflicted Defendants had already begun to plan imminent, massive sales of their own holdings of Viacom securities that would cause sharp declines in the prices of the securities sold in the Offerings.

189. The Conflicted Defendants also misled investors in the Offerings by violating applicable Financial Industry Regulatory Authority ("FINRA") rules governing disclosure in the Offering Materials. Those rules required Conflicted Defendants Morgan Stanley, Goldman Sachs, Wells Fargo Securities, BNP Paribas, and MUFG Securities, as underwriters of the Offerings, to disclose their imminent block sales of Viacom securities:

> *No member or person associated with a member shall cause to be executed an order to buy or sell a security* or a related financial instrument when such member or person associated with a member causing such order to be executed has *material, non-public market information concerning an imminent block transaction in that*

> *security*, a related financial instrument or a security underlying the related financial instrument prior to the time information concerning the block transaction has been made publicly available or has otherwise become stale or obsolete.

FINRA Rule 5270, "Front Running of Block Transactions."

190. FINRA guidance in Regulatory Notice 12-52 further provides that Rule 5270 applies to "the front running of any customer order, not just imminent block transactions, *that places the financial interests of the firm ahead of those of its customer* or the misuse of knowledge of an imminent customer order," which also "may violate other FINRA rules . . . or the federal securities laws."

191. Here, each of the five Conflicted Defendant underwriters, who also served as Archegos's prime brokers, unquestionably had "material, non-public market information concerning . . . imminent block transaction[s]" in Viacom securities at the same time as they underwrote the Offerings, including when they issued the Offering Materials, set pricing, agreed to sell the Viacom securities being offered at those prices, and then sold those securities as the Offerings priced and then closed. As discussed below, Goldman Sachs admitted that it had already begun its block sales of Viacom on the same day the Offerings closed, and Morgan Stanley admitted that it knew block sales by it were "imminent" when the Offerings closed, and had not yet begun only because Morgan Stanley was waiting for the Offerings to close before publicly disclosing its Viacom block sales. That misconduct squarely "place[d] the financial interest of the firm[s] ahead of those of [their] customer[s]."

192. The Underwriter Defendants also misled investors regarding the pricing of the Offerings. Under Item 505 of Regulation S-K, 17 C.F.R. § 229.505, the Underwriter Defendants were required to disclose material information concerning the prices at which Viacom Common Stock and Preferred Stock were offered and sold in the Offerings. With regard to the Common Offering, Item 505(a) requires that "where there is a material disparity between the offering price

of the common equity being registered and the market price of outstanding shares of the same class," the offering documents must "describe the various factors considered in determining such offering price."

193. At the time pricing was set for the Common Offering, and through and beyond the time the Common Offering closed, there was a clear and growing "material disparity" between the $85.00 Offering price of Viacom Common Stock and the market price of Viacom Common Stock. On March 24, the day the Underwriter Defendants announced the price for the Common Offering, Viacom Common Stock closed at $70.10 per share, which price declined to $66.35 per share on March 25, $48.23 on March 26 (the day the Offerings closed), and $45.01 on March 29. Yet the Offering Materials for the Common Offering omitted any discussion of "the various factors considered in determining [the] offering price." Had the Underwriter Defendants complied with their disclosure obligations, the Offering Materials would have disclosed to Plaintiffs and the Class that the pricing of the Common Offering was highly artificially inflated, as Viacom Common Stock had already begun a rapid and steep decline that would be accelerated by the large block sales Conflicted Defendants Morgan Stanley, Goldman Sachs, Wells Fargo Securities, BNP Paribas, and MUFG Securities (through Mitsubishi UFJ) were already contemplating and organizing, and the massive margin calls that those Conflicted Defendants had issued to a client that the banks knew could not meet the calls.

194. The "Underwriting" section of the Offering Materials also described the Underwriter Defendants' overallotment options:

> We have granted to the underwriters an option, exercisable for 30 days from the date of this prospectus supplement, to purchase up to 3,000,000 additional shares of Class B common stock at the public offering price listed on the cover page of this prospectus supplement, less underwriting discounts and commissions.

A substantially identical description of the Preferred Stock overallotment option was included in the Offering Materials for the Preferred Stock.

195. The statements quoted in ¶ 194 were materially false and misleading. It was untrue to represent that the Underwriter Defendants might exercise the overallotment options when it was already a foregone conclusion that they would not do so, but instead had already begun to plan imminent, massive block sales of their own holdings of Viacom securities, in excess of the volume of securities sold in the Offerings, that would cause sharp declines in the prices of the securities sold in the Offerings. In other words, the Underwriter Defendants stated in the Offering Materials that they might purchase large quantities of additional shares at the (artificially inflated) prices set in the Offerings, which would positively affect the market prices of the Viacom securities offered, rather than truthfully disclose that the market for those securities was cratering due to the dilution caused by the Common Offering and investors' weak demand for the Offerings, and that the securities' prices would continue to crater due to the Conflicted Defendants' own block sales at prices far below the Offering prices.

196. The "Underwriting" section of the Offering Materials also described lockup agreements that would prevent Viacom and its officers, directors, and affiliates from selling Viacom securities for 45 or 90 days after the Offerings:

> We have agreed that we will not (and that we will ensure our affiliates (other than [Viacom's controlling stockholder,] National Amusements, Inc.) do not) (i) offer, sell, contract to sell, announce the intention to sell, pledge, or otherwise dispose of (or enter into any transaction which is designed to, or might reasonably be expected to, result in the disposition (whether by actual disposition or effective economic disposition due to cash settlement or otherwise), directly or indirectly, or file (or participate in the filing) with the SEC a registration statement relating to any shares of our Class B common stock or securities convertible into or exchangeable for securities of our Class B common stock, or establish or increase a put equivalent position or liquidate or decrease a call equivalent position within the meaning of Section 16 of the Exchange Act, any other shares of Class B common stock or any securities convertible into, or exercisable, or exchangeable for, shares of Class B

> common stock, or publicly announce an intention to effect any such transaction, in each case without the prior written consent of Morgan Stanley & Co. LLC for a period of 90 days after the date of this prospectus supplement, other than [exceptions unrelated to Archegos and the Conflicted Defendants' holdings of Viacom securities, which were mentioned nowhere in the Offering Materials].
>
> Our directors, our executive officers and National Amusements, Inc., our controlling stockholder, have entered into *lock-up agreements with the underwriters prior to the commencement of this offering pursuant to which each of these persons, with limited exceptions, for a period of 45 days after the date of this prospectus supplement*, may not, without the prior written consent of Morgan Stanley & Co. LLC, offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend or otherwise transfer or dispose of, directly or indirectly, any shares of Class B common stock or any securities convertible into or exercisable or exchangeable for Class B common stock, or enter into any swap, hedge or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of Class B common stock or any securities convertible into or exercisable or exchangeable for Class B common stock, whether in any case such transaction is to be settled by delivery of Class B common stock or such other securities, in cash, or otherwise.

A substantially identical description of the lock-up agreements was included in the Offering Materials for the Preferred Stock.

197. The statements quoted in ¶ 196 were materially misleading. Investors reasonably understand that lock-up agreements of the kind described in the Offering Materials are entered into by underwriters to reduce the likelihood of large sales of an issuer's securities in the period following a public offering and thus to reduce the likelihood that such sales will cause the price of the securities sold in the offering to decline. It was materially misleading to describe the Underwriter Defendants' lock-up agreements with Viacom and Viacom insiders without disclosing that the Conflicted Defendant underwriters themselves had already begun to plan imminent, massive sales of their own holdings of Viacom securities that would cause sharp declines in the prices of the securities sold in the Offerings.

198. The "Underwriting" section of the Offering Materials also described the Underwriter Defendants' trading and other activities in the securities markets:

> The underwriters and their respective affiliates are full service financial institutions engaged in various activities, which may include securities trading, commercial and investment banking, financial advisory, investment management, investment research, principal investment, hedging, financing and brokerage activities. . . .
>
> In addition, in the ordinary course of their various business activities, *the underwriters and their respective affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers and may at any time hold long and short positions in such securities and instruments. Such investment and securities activities may involve our securities and instruments.* The underwriters and their respective affiliates may also make investment recommendations or publish or express independent research views in respect of such securities or instruments and may at any time hold, or recommend to clients that they acquire, long or short positions in such securities and instruments.

Substantially identical language appeared in the Offering Materials for both Offerings.

199. The statements quoted in ¶ 198 were materially misleading. It was misleading to represent that the Underwriter Defendants might engage in trading, brokerage, or financing activities in Viacom securities for their own account or for customers without disclosing that, as a result of their financing and brokerage activities in Viacom securities for Archegos, the Conflicted Defendants had already begun to plan imminent, massive sales of their own holdings of Viacom securities that would cause sharp declines in the prices of the securities sold in the Offerings.

200. The "Risk Factors" section of the Offering Materials included a description of risks related to the market for Viacom securities:

> **The market price of our Class B common stock has been and could remain volatile, and accordingly, the value of an investment in our Class B common stock may also fluctuate.**
>
> Stock markets in general and our Class B common stock in particular have experienced significant price and trading volume volatility, including as a result of the ongoing COVID-19 pandemic. The market price and trading volume of our Class B common stock may continue to be subject to significant fluctuations due to various factors, as well as economic and geopolitical conditions in general and to variability in the prevailing sentiment regarding our operations or business prospects, as well as, among other things, changing investment priorities of our stockholders or prospective stockholders. Because the market price of our Class B

> common stock fluctuates significantly, stockholders may not be able sell their shares at attractive prices.

201. The statements quoted in ¶ 200 were materially misleading. It was misleading to describe the market for Viacom securities and the possibility of "fluctuations" in the securities' prices without disclosing that the Conflicted Defendants had already begun to plan imminent, massive sales of their own holdings of Viacom securities that would cause sharp declines in the prices of the securities sold in the Offerings.

202. The "Risk Factors" section of the Offering Materials also described the possibility that future sales of substantial amounts of Viacom securities could affect the securities' market price:

> **The Concurrent Offering and future sales of substantial amounts of our Class B common stock could affect the market price of our Class B common stock.**
>
> Concurrently with this offering, we are offering, by means of a separate prospectus supplement and accompanying prospectus, 10,000,000 shares of our Mandatory Convertible Preferred Stock (and up to 1,500,000 additional shares of Mandatory Convertible Preferred Stock that the underwriters in the Concurrent Offering have the option, exercisable within 30 days from the date of the prospectus supplement for the Concurrent Offering, to purchase from us, solely to cover over-allotments, if any). . . .
>
> The Concurrent Offering and future sales of substantial amounts of our Class B common stock or other securities convertible or exchangeable into shares of our Class B common stock into the public market whether by us or any of our security holders, including shares of Class B common stock issued and delivered pursuant to the terms of the Mandatory Convertible Preferred Stock or issued upon exercise of options or warrants, or the vesting of restricted stock units, or in connection with other potential acquisitions or business combinations, or perceptions that those sales and/or conversions or exchanges could occur, could adversely affect the prevailing market price of our Class B common stock and our ability to raise capital in the future.

203. The statements quoted in ¶ 202 were materially misleading. It was misleading to state that the Preferred Offering and future sales of Common Stock might adversely affect the Common Stock's market price without disclosing that the Conflicted Defendants had already

begun to plan imminent, massive sales of their own holdings of Viacom securities that would cause sharp declines in the prices of the securities sold in the Offerings.

204. On information and belief, the Underwriter Defendants drafted the statements quoted and discussed in ¶¶ 186-203 and provided these statements to Viacom for inclusion in the Offering Materials.

I. The Underwriter Defendants' Drafting of the Relevant Portions of the Offering Materials and Failure to Conduct a Reasonable Due-Diligence Investigation

205. The Underwriter Defendants are investment banks that specialize in, among other things, underwriting public offerings of securities. They served as the underwriters of the Offerings and shared $43.875 million in fees collectively for their services. These Defendants determined that in return for their share of the Offerings' proceeds, they were willing to solicit purchases of Viacom Common Stock or Preferred Stock or both securities in the Offerings. Each Underwriter Defendant assigned personnel to the Offerings' working groups, including investment bankers, analysts, associates, and counsel, to market Viacom Common Stock or Viacom Preferred Stock or both sold in the Offerings, and those personnel worked on and approved the content of the Offering Materials and other solicitation materials.

206. On information and belief, the Underwriter Defendants themselves drafted the portions of the Offering Materials headed "Underwriting" and "Risk Factors" quoted and discussed in ¶¶ 186-203. As part of the underwriting agreements for the Offerings, Viacom agreed to indemnify the Underwriter Defendants for "any and all loss, liability, claim and damage whatsoever, as incurred, arising out of any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (or any amendment thereto) or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading," other than "any loss, liability, claim, damage or expense to

the extent arising out of any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with written information furnished to the Company by any Underwriter through the Representatives expressly for use in the Registration Statement (or any amendment thereto) . . . ." Each Underwriter Defendant agreed to indemnify Viacom and its officers and directors "against any and all loss, liability, claim, damage and expense . . . with respect to untrue statements or omissions, or alleged untrue statements or omissions, made in the Registration Statement (or any amendment thereto) . . . in reliance upon and in conformity with written information furnished to the Company by such Underwriter through the Representatives expressly for use in the Registration Statement (or any amendment thereto) . . . ." On information and belief, the portions of the Offering Materials headed "Underwriting" and "Risk Factors" quoted and discussed in ¶¶ 186-203 were provided to Viacom by the Underwriter Defendants expressly for use in the Offering Materials.

J. The Conflicted Defendants Were Aware of the Risks Posed by Archegos's Concentrated, Leveraged Positions

207. Neither knowledge nor scienter is an element of the Securities Act claims asserted in this Complaint. Nevertheless, even if they were, Conflicted Defendants Morgan Stanley, Goldman Sachs, Wells Fargo Securities, BNP Paribas, and MUFG Securities knew about the massive risks that their prime-brokerage relationships with Archegos posed, including by virtue of the large block sales of Viacom and other Archegos-related securities at fire-sale prices that those banks conducted contemporaneously with the Offerings.

208. As discussed above, Archegos's and the banks' total return swaps allowed Archegos to amass enormous and highly leveraged positions without triggering public reporting obligations, as the securities in which Archegos invested were held by the banks and not Archegos. Those positions and the massive risks they posed were hidden from public investors. SEC filings

show that at the time of the Offerings, Archegos's prime brokers—including the Conflicted Defendants who dumped their Viacom and other Archegos-related shares to avoid their own material losses—held 29% of Viacom's outstanding Common Stock.

209. As the Paul Weiss Report explained, Archegos did not hide the extent of its aggregate exposure from its prime brokers. Rather, Archegos expressly informed Credit Suisse that Archegos "had similar positions across its other prime brokers" and "that its long positions with CS were 'representative' of the positions Archegos held with its six other prime brokers at the time." On information and belief, Archegos also disclosed that information to Conflicted Defendants Morgan Stanley, Goldman Sachs, Wells Fargo Securities, BNP Paribas, and Defendant MUFG Securities' affiliate Mitsubishi UFJ. As the Paul Weiss Report further detailed, "if there was an issue with one of Archegos's large, long positions, all brokers would be looking to exit simultaneously." And if all the prime brokers perceived that risk and increased their margins simultaneously, that "could, in theory, force a liquidation." That is precisely what happened here.

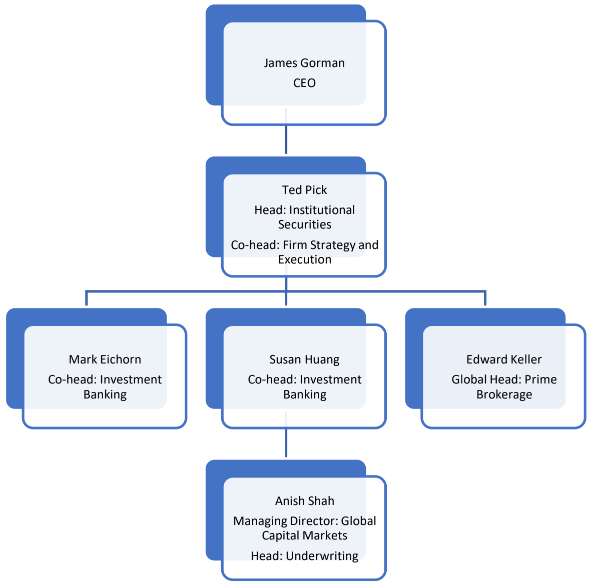
210. For the five Conflicted Defendant banks that both underwrote the Offerings and served as prime brokers to Archegos, there is no genuine question that the individuals and entities responsible for the underwriting and related disclosures either knew or had access to information about the fire sales of Viacom stock that coincided with the Offerings. Moreover, all Underwriter Defendants, as underwriters of the Offerings, had an obligation to investigate factors such as the impending wind-down of Archegos that posed enormous undisclosed risks to the Class. As alleged in ¶¶ 212-19, each bank's organizational and reporting structure shows the overlap and close ties between the bank's underwriting and prime-brokerage functions.

211. On information and belief, information about both the terms of the underwriting of the Offerings and the ongoing fire sale of Viacom and other Archegos-related securities was

known to senior executives of the five Conflicted Defendants no later than early in the week of March 22, 2021, before the Offerings closed on March 26. To the extent that any of these banks had "ethical wall" information barriers between divisions of the bank, the information about both the underwriting of the Offerings and the bank's fire sale of Viacom securities in response to Archegos's collapse was known to senior executives whose positions placed them above the "wall" and who had responsibility for both the underwriting and the fire sale. At minimum, the personnel at these banks who were responsible for the Offerings had access to information about the fire sale and failed to reasonably investigate the accuracy and completeness of the Offering Materials' statements about the terms of the underwriting of the Offerings.

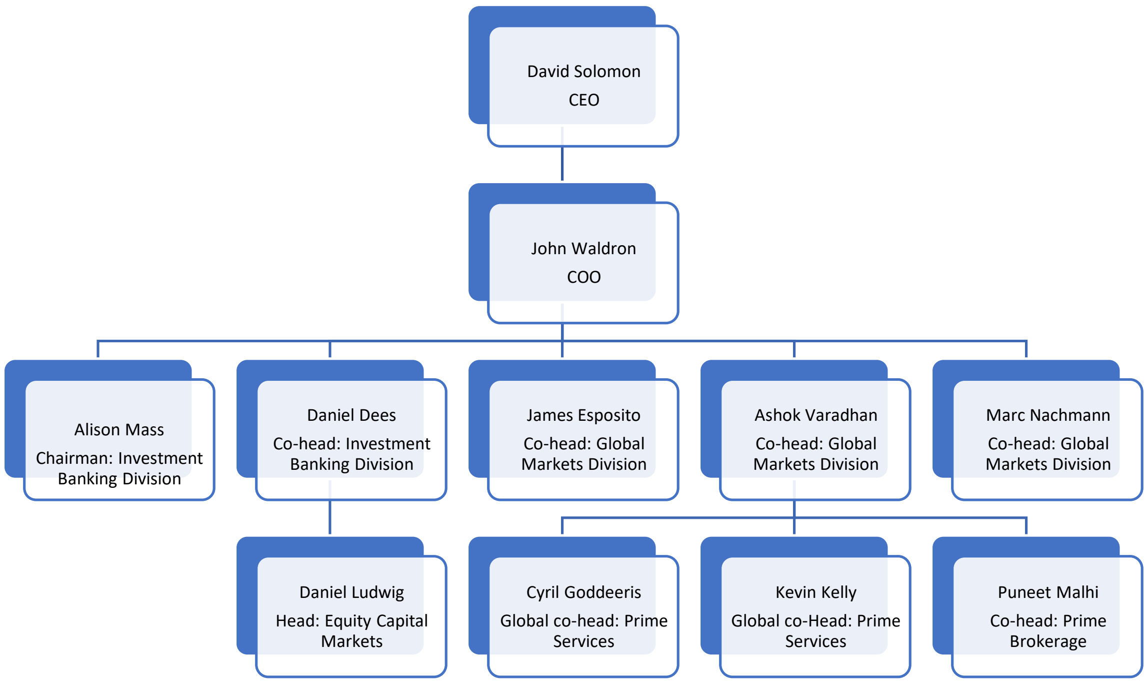
212. Morgan Stanley's securities underwriting unit and its prime brokerage were both housed in the bank's Institutional Securities Segment, and the heads of both those functions reported to Ted Pick, the head of Institutional Securities and Co-Head of Firm Strategy and Execution. Specifically, at the time of the Offerings, Anish Shah, Managing Director of Global Capital Markets and Head of Underwriting, oversaw underwriting services and reported to Co-Heads of Investment Banking Mark Eichorn and Susan Huang. Eichorn and Huang reported directly to Pick, as did Edward Keller, who served as the Global Head of Prime Brokerage. Pick in turn reported directly to Morgan Stanley's Chairman and CEO, James Gorman.

Morgan Stanley



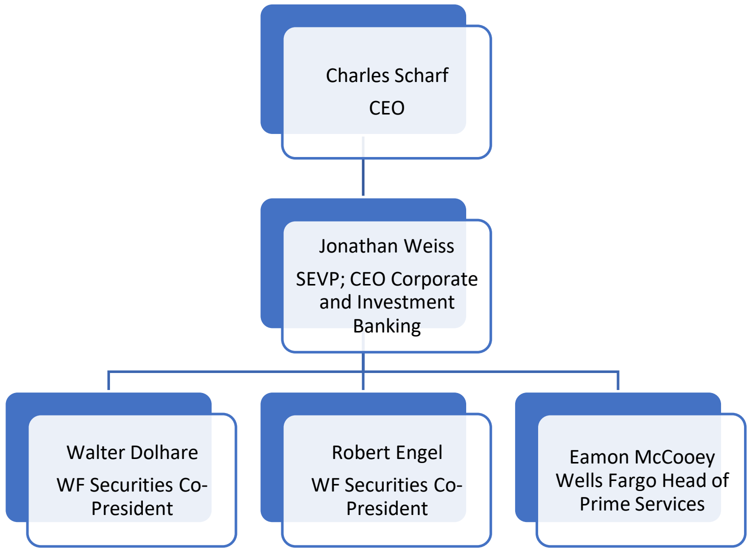
213. Goldman Sachs's securities underwriting unit was overseen by Daniel Ludwig, head of the bank's Americas Equity Capital Markets. Ludwig reported to Alison Mass, Daniel Dees, and James Esposito, the heads of Goldman Sachs's Investment Banking Division, who in turn reported directly to Goldman Sachs's Chairman and CEO, David Solomon, and President and COO, John Waldron. The prime-brokerage business was housed in Prime Services, which was overseen by Cyril Goddeeris, Puneet Malhi, and Kevin Kelly. Goddeeris, Malhi, and Kelly in turn reported to Phil Berlinski, COO of Equities, who reported to the Global Co-Heads of Global Markets, Ashok Varadhan and Marc Nachmann. Varadhan and Nachmann also reported directly to Solomon and Waldron. Further, Mass, Dees, Esposito, Varadhan, and Nachmann all served on the Goldman Sachs Management Committee with Solomon and Waldron, and the bank's Firmwide Risk Committee included Nachmann, Varadhan, and Esposito, along with Goldman Sachs' CFO and Chief Risk Officer.

Goldman Sachs



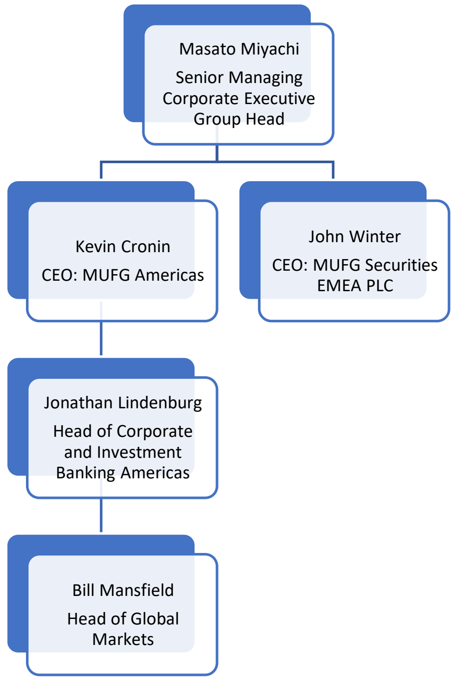
214. Wells Fargo Securities' underwriting was overseen by Walter Dolhare and Robert Engel, who served as Wells Fargo Securities' Co-Presidents. Dolhare and Engel reported to Jonathan Weiss, Senior Executive Vice President and CEO of Corporate and Investment Banking of Wells Fargo & Company, Wells Fargo Securities' parent entity. Wells Fargo Securities' Head of Prime Services, who oversaw the bank's prime brokerage, was Eamon McCooey. McCooey also reported to Weiss. Weiss in turn reported directly to Wells Fargo & Company's President and CEO, Charles Scharf.

<u>Wells Fargo</u>



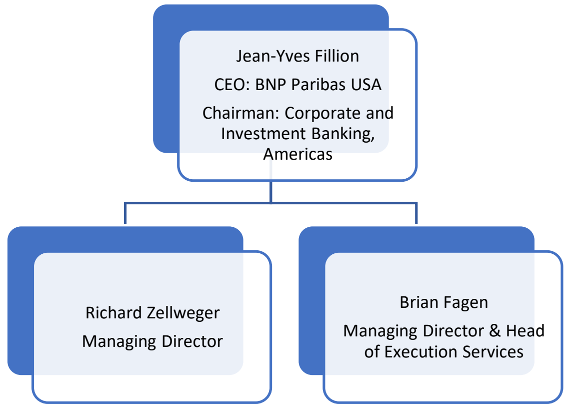
215. MUFG Securities' underwriting services were overseen by Bill Mansfield, Head of Global Markets. Mansfield reported to Jonathan Lindenberg, Head of Corporate and Investment Banking Americas, who reported to MUFG Americas' CEO, Kevin Cronin, who in turn reported to MUFG's Senior Managing Corporate Executive Group Head, Masato Miyachi. The bank's prime-brokerage services were housed in its affiliate Mitsubishi UFJ through its subsidiary MUFG Securities EMEA plc, headed by John Winter, who oversaw the prime brokerage and also reported directly to Miyachi.

MUFG



216. BNP Paribas's underwriting services were overseen by Managing Director Richard Zellweger, who reported directly to Jean-Yves Fillion, CEO of BNP Paribas USA and Chairman of Corporate and Investment Banking, Americas. After BNP Paribas began the process of acquiring Deutsche Bank's prime brokerage in July 2019, including at the time of the Offerings, BNP Paribas's prime brokerage was housed in its Execution Services group. Execution Services was run by Brian Fagen, who joined BNP Paribas from Deutsche Bank in connection with the prime-brokerage acquisition and also reported directly to Fillion.

BNP Paribas



217. Further, by the time of the Offerings, BNP Paribas had substantially integrated Deutsche Bank's prime brokerage into BNP Paribas. In May 2020, in both BNP Paribas's quarterly earnings call and periodic reporting, the bank touted "the progressive integration of Deutsche Bank's prime brokerage and electronic execution," including that "the transfers of first clients have already been achieved." And on February 8, 2021, *SNL European Financial Daily* reported that BNP Paribas's CEO, Jean-Laurent Bonafe, discussed the "implementation of the French banking group's prime brokerage agreement" with Deutsche Bank, including that, in 2021, "BNP Paribas expects a growing P&L as a result of more clients being onboarded as part of the integration of Deutsche Bank's prime brokerage business."

218. Based on their dual roles as underwriters and prime brokers, Conflicted Defendants Morgan Stanley, Goldman Sachs, Wells Fargo Securities, BNP Paribas, and MUFG Securities were at a distinct informational advantage over the investors who purchased Viacom securities in the Offerings. At the time of the Offerings at the latest, the Conflicted Defendants knew that Archegos was highly leveraged in a tightly concentrated pool of single stocks, and that a decline in the prices of one or more of those stocks could cause the entire Archegos portfolio to collapse.

219. On information and belief, including by virtue of the close relationships and

overlapping senior personnel in each of the Conflicted Defendants' organizational and reporting structures, each of Morgan Stanley, Goldman Sachs, Wells Fargo Securities, BNP Paribas, and MUFG Securities knew or should have known that the banks were organizing block sales of Viacom and other Archegos-related securities at fire-sale prices. Each is responsible for concealing that material undisclosed information, as well as failing to disclose the enormous undisclosed harm that Viacom's public investors faced by participating in the Offerings, and the banks' conflicts as both underwriters of the Offerings and Viacom's prime brokers.

220. As alleged further in ¶ 240, the Underwriter Defendants that were not prime brokers for Archegos either knew the undisclosed facts about Archegos's collapse and its prime brokers' fire sale of Viacom securities during the week of March 22, 2021 before the Offerings closed or had a duty to make a reasonable investigation of those facts and failed to do so.

K. The Conflicted Defendants Admitted that Senior Executives Concealed Their Viacom Fire Sales from Public Investors to Mitigate Their Own Losses

221. Key Defendants have admitted that they knew about the block sales conducted concurrent with the Offerings, but concealed them from public investors to avoid the banks' own material losses.

222. In Morgan Stanley's first-quarter 2021 earnings call on April 16, 2021, Morgan Stanley's CEO, James Gorman, highlighted that the bank had "liquidated some very large single stock positions through a series of block sales culminating on Sunday night, March 28. That resulted in a net loss of $644 million, which represents the amount the client owed us under the transactions that failed to pay us. Subsequently, we made a management decision to completely de-risk the remaining smaller long and short positions which, while not especially problematic, might have been. *We decided we would be out of the risk as rapidly as possible* and, in so doing, incurred an incremental loss of $267 million. *I regard that decision as necessary and money well-*

spent. The results are all reflected in Q1." He concluded by noting that he was "very pleased with how the institution came together and responded to this very complex situation."

223. Gorman made clear that protecting itself from risks like those Archegos posed was part of Morgan Stanley's "philosophy": "we cauterize the stuff and deal with it as soon as we possibly can. This was, as you know, a very unusual event. It was a family office, actually; no outside money. It got to enormous size by the growth in their single stock position, a very concentrated single stock long position that had explosive growth, and they're offset by the very shorts and the indices that they were short."

224. When asked why Morgan Stanley did not disclose its losses associated with Archegos sooner, Gorman admitted that the bank wanted to ensure the Offerings proceeded apace before cratering Viacom's stock price. According to Gorman, "It was complicated I will say, . . . by the fact that *one of the large single stock positions related to a security in which we have been an underwriter, and we thought the right thing to do was to close that previous underwriting which happened on that Friday. So we had to hold off which caused us to be later than some, if you will. And the reason for that was not that we weren't aware of what was going on, we just felt we had an underwriting obligation to deal with*."

225. In other words, Gorman admitted that senior Morgan Stanley executives who (a) knew about and were responsible for underwriting the Offerings, and also (b) knew about and had control over the bank's block sales of Viacom and other Archegos-related securities, were "aware of what was going on" but affirmatively decided to let the Offerings close without disclosing the block sales that drove Viacom's share prices down to a fraction of what Plaintiffs and the Class paid in the Offerings. Rather than disclose material negative information that would surely have caused the Offerings to fail—costing Morgan Stanley $20 million in underwriting fees and limiting

Morgan Stanley's ability to mitigate its own losses—Morgan Stanley reaped its fees and sold hundreds of millions of dollars of Viacom securities to investors at highly inflated prices, knowing that the prices of those securities would be decimated by the banks' impending block trades.

226. Similarly, in its first-quarter 2021 earnings call on April 14, 2021, Goldman Sachs admitted that at the same time it underwrote the Offerings, Goldman Sachs was already conducting block sales of Archegos-related securities, including massive block sales of Viacom Common Stock on the day the Offerings closed, to avoid its own losses. On that call, Goldman Sachs' CEO, David Solomon, highlighted that Goldman Sachs had "*identified the risk early and took prompt action*," and was "pleased with how the firm handled it and it's a reflection of the engagement and communication of teams across Goldman Sachs, both in the business and on the control side of our firm."

227. Goldman Sachs, like Morgan Stanley, admitted that it placed its interests before those of Plaintiffs and the Class. Despite having "identified the risk early" and being "very, very aware of the embedded risk" in the bank's prime brokerage (including its relationship with Archegos), Goldman Sachs breached its disclosure obligations as an underwriter of the Offerings and sold hundreds of millions of dollars of Viacom securities to unsuspecting investors at highly inflated prices while reaping underwriting fees for itself. In doing so, Goldman Sachs avoided billions of dollars of its own losses, all while knowing that the prices of the securities it sold in the Offerings would be decimated by the banks' impending block trades.

228. In addition, subsequent public reporting evidences the Conflicted Defendants' knowledge that Archegos was imploding and lacked available capital to meet the banks' margin calls, and accordingly there was not sufficient demand for Viacom securities to support the prices the Underwriter Defendants and Viacom set for the Offerings. On April 3, 2021, the *New York*

Times reported that, after the Offerings were announced, as the Underwriter Defendants "canvassed the investor community, they were counting on Mr. Hwang to be the anchor investor wo would buy at least $300 million of the shares, four people involved with the offering said. But sometime between the deal's announcement and its completion that Wednesday morning, Mr. Hwang changed plans." The Conflicted Defendants knew that a key investor that they relied on for 10% of the capital to be raised in the Offerings pulled out.

229. On information and belief, the underwriting personnel at the Conflicted Defendants contacted the prime-brokerage personnel with visibility into Archegos's financial condition in order to discuss and ascertain the reasons the banks were losing the Offerings' "anchor investor"—or, in their exercise of due diligence, investigated Archegos's decision to pull out of the Offerings and spoke to their prime-brokerage colleagues regarding the reasons why. Yet Defendants (including the Underwriter Defendants who were not also Archegos's prime brokers, and had their own independent obligations to investigate the loss of the Offerings' anchor investor) never disclosed in the Offering Materials that their anchor investor pulled out of the Offerings, let alone that the anchor investor had also amassed a highly leveraged, concentrated position in Viacom that was unravelling, causing the price of the securities to plummet.

L. The Conflicted Defendants Face Multiple Government Investigations Into Their Archegos-Related Misconduct, Including the Offerings

230. The fallout from Archegos's collapse was swift. In its aftermath, the Conflicted Defendants' Archegos-related misconduct has been the focus of intense government scrutiny and multiple investigations, including the Conflicted Defendants' roles in the Offerings and the investor losses that ensued.

231. First, as Bloomberg reported on March 31, 2021, the SEC opened an investigation into Hwang, Archegos, and the banks' margin calls that led to Archegos's implosion and the fire

sale that ensued. In its report on the announcement of the SEC investigation, Reuters further reported that "U.S. and British financial regulators have been in discussions with market players including broker-dealers as they try to determine the fallout from Archegos's default."

232. Second, on April 7, 2021, U.S. Senator Sherrod Brown, in his capacity as the Chairman of the Senate Committee on Banking, Housing, and Urban Affairs, issued substantively identical letters to Morgan Stanley, Goldman Sachs, and other Archegos prime brokers "concerning your firm's participation in recent stock market transactions involving Archegos Capital Management (Archegos) and its principal owner Sung Kook (Bill) Hwang."

233. In his letters, Senator Brown continued,

> I am troubled, but not surprised, by the news reports that Archegos entered into risky derivatives transactions facilitated by major investment banks, resulting in panicked selling of stocks worth tens of billions of dollars . . . . Similar failures in the past . . . demonstrate the hazards to market stability and investor confidence when excessive leverage is combined with careless risk taking.
>
> Based on news reports and discussions with financial regulators, it appears Goldman Sachs [or, in letters to the other prime brokers, those banks] acted as one of several prime brokers for Archegos and conducted a "margin call" in the last week of March, rapidly liquidating shares of several companies. The details and ultimate consequence of Archegos's failure remain to be seen, but *the massive transactions, and losses, raise several questions regarding Goldman Sachs's [and the other prime brokers'] relationship with Archegos and the treatment of so-called "family offices," Mr. Hwang's history, and the transactions that have been mentioned in news reports*.

234. Senator Brown, on behalf of the Banking Committee, then demanded that the banks produce several categories of information in order to "better understand the circumstances of the Archegos transactions" and the banks' involvement. That demand included information directly related to the Offerings and the roles that Goldman Sachs and Morgan Stanley played as both Archegos's prime brokers and underwriters for the Offerings, as Archegos imploded and Viacom's stock price tanked:

> As detailed in news reports, Archegos-related margin calls involved the sale of shares of ViacomCBS Inc., which exhibited significant volatility in March, beginning the month at $67, reaching $100, and ending the month at $45. *Several of the banks engaged in trading relationships with Archegos, including Goldman Sachs [and Morgan Stanley], participated in an SEC-registered offering of ViacomCBS shares on March 23 at a price of $85. Please discuss whether that offering contributed to the Archegos margin call. Also, please explain the oversight and management of the brokerage relationship with Archegos and the sale [of] ViacomCBS shares and of the completion of the offering of ViacomCBS shares[.]*

235. Senator Brown's letter further demanded information concerning, among other things, the banks' "participation in, or consideration of, any coordination with other banks to sell, or to refrain from selling, stocks related to Archegos transactions," as well as, "[g]iven the stunning speed and size of the stock sales leading to Archegos's failure, . . . any information, market activity, or other factors that you believe caused or contributed to the margin call."

236. The banks' responses have not been made public.

237. Third, on May 26, 2021, Bloomberg reported that the DOJ had opened an investigation into Archegos and its relationships with its prime brokers, and that federal prosecutors in the Southern District of New York had demanded information from those banks. Bloomberg further reported that the United Kingdom's Prudential Regulation Authority had launched an investigation into banks' exposure to Archegos and demanded that the banks produce information related to their dealings with Archegos, which the U.K. regulator would coordinate with regulators from the U.S., Switzerland, and Japan.

M. The Underwriter Defendants Ignored Numerous Red Flags Regarding the Risks Posed by Archegos

238. Underwriters facilitate the offering of securities by an issuer to investors. In so doing, they are responsible for the information disclosed in registration statements and prospectuses about the risks associated with an offering, which in turn requires underwriters to undertake a reasonable investigation of all material facts and risks. 15 U.S.C. § 77k(b)(3). "In

determining . . . what constitutes reasonable investigation and reasonable ground for belief, the standard of reasonableness shall be that required of a prudent man in the management of his own property." 15 U.S.C. § 77k(c).

239. The Underwriter Defendants were required to exercise a high degree of care in their investigation and independent verification of the representations in the Offering Materials. As the SEC has stated, "Congress recognized that underwriters occupied a unique position that enabled them to discover and compel disclosure of essential facts about the offering. Congress believed that subjecting underwriters to the liability provisions would provide the necessary incentive to ensure their careful investigation of the offering." The Regulation of Securities Offerings, SEC Release No. 7606A, 63 Fed. Reg. 67174, 67230, *available at* 1998 WL 833389 (Dec. 4, 1998) ("SEC Rel. 7606A"). Moreover, while shelf registrations—under which the prospectus supplements for the Offerings here were issued—are pre-approved registration statements that allow new securities to be issued upon the filing of a prospectus supplement, thereby providing quicker access to financing, the same high level of due diligence is required to ensure that the prospectus supplements, incorporated by reference into the registration statement, disclose all material risks and are not otherwise false or misleading.

240. Each of the Underwriter Defendants was obligated to ensure that underwriting for the Offerings included an adequate due-diligence investigation. Accordingly, to the extent any of the non-lead underwriters relied on any purported due-diligence investigation by lead underwriters and Joint Book-Running Managers Morgan Stanley and J.P. Morgan, or Co-Managers Goldman Sachs, Citigroup, Mizuho, and Siebert Williams Shank, the non-lead and non-book-running underwriters are responsible for the inadequate investigation undertaken by the lead underwriters and Joint Book-Running Managers as their agents. Likewise, although the non-conflicted

Underwriter Defendants were not among Archegos's prime brokers, those Underwriter Defendants were responsible for ensuring adequate due diligence. At a minimum, that due diligence should have included investigating Archegos's withdrawal as the Offerings' anchor investor—which caused the Offerings to suddenly shrink in value by 10%—and the severe risks that Archegos's lack of liquidity posed to public investors.

241. The Underwriter Defendants should have conducted due diligence in March 2021 into, *inter alia*, the material risks that the Conflicted Defendants' own Viacom holdings—and their attendant relationships with Archegos—posed for public investors in the Offerings. Among other things, the Conflicted Defendants knew, or should have known based on their relationships with Archegos, that Archegos held or had an interest in a significant percentage of Viacom securities; that, if the Conflicted Defendants issued margin calls, there was a material likelihood that Archegos would not meet the calls; that if Archegos did not meet the margin calls, the Conflicted Defendants and Archegos's other prime brokers would liquidate the Viacom stock they held as collateral for Archegos; and that, as a result of the foregoing, there was a material risk that the price of Viacom Common and Preferred Stock would decline significantly, far below the prices the Underwriter Defendants set for the Offerings.

242. The Conflicted Defendants also had reasons to investigate Archegos's Viacom position and the risk those positions posed to investors in the Offerings. Morgan Stanley and Goldman Sachs especially should have known of Archegos's highly concentrated position due to those banks' own significant Viacom holdings of roughly 43 million and 10 million shares, respectively, as of December 31, 2020 (or 7.3% and 1.7% of the outstanding shares before the Common Offering), a substantial portion of which represented shares held as collateral to hedge Archegos's swaps.

243. Further, the Conflicted Defendants were aware of Archegos's concentrated positions in Viacom stock (and others) and Archegos's high leverage, and were further aware or negligently disregarded that those concentrated positions and high leverage could result in selling pressure and significant negative impact on the price of Viacom stock. Given the size of Archegos's portfolio, and its large and concentrated position in Viacom (constituting approximately 9% of the Company's outstanding shares immediately before the Offerings), the Conflicted Defendants knew (or were negligent in not knowing) that Archegos held a highly leveraged, undiversified portfolio and that it was susceptible to default even with slight declines in the value of any of the portfolio's concentrated securities, especially after Archegos was strained by the declines in the Asian markets in mid-March, and that Archegos's positions posed a serious risk to Viacom stock and the Offerings.

244. The foregoing "red flags" gave rise to a duty of investigation that required a far more robust investigation than the Underwriter Defendants undertook in connection with the Offerings. But despite those red flags, which the Conflicted Defendants were aware of, or should have been aware of had they properly conducted a reasonable investigation, Defendants moved forward with the Offerings using the materially untrue and misleading Offering Materials.

N. Investors Who Bought Viacom Common Stock or Preferred Stock in the Offerings Suffered Substantial Losses

245. Since the Offerings, Viacom's Common Stock and Preferred Stock prices have fallen far below the prices in the Offerings, thereby damaging investors, including Plaintiffs, who bought Viacom Common Stock and Preferred Stock in or traceable to the Offerings.

246. By the time of commencement of this action, Viacom's Common Stock was trading as low as $40.75 per share, a 52% decline from the $85.00 per share Common Offering price, and Viacom's Preferred Stock was trading as low as $68.99 per share, a 31% decline from the $100.00

per share Preferred Offering price.

V. CLASS ACTION ALLEGATIONS

247. Plaintiffs bring this action as a class action under Article 9, Section 901 of the New York Civil Practice Law & Rules, on behalf of a class consisting of all persons and entities that purchased or otherwise acquired: (i) Viacom Class B Common Stock issued in Viacom's secondary public offering, which was announced on March 22, 2021, priced on March 23, 2021, and closed on March 26, 2021; or (ii) Viacom's 5.75% Series A Mandatory Convertible Preferred Stock issued in or traceable to Viacom's initial public offering of that Preferred Stock, which was announced on March 22, 2021, priced on March 23, 2021, and closed on March 26, 2021, and were damaged thereby. Excluded from the Class are (i) Defendants, the officers, directors, and affiliates of Defendants at all relevant times, members of their immediate families, their legal representatives, heirs, successors or assigns, and any entity in which Defendants have or had a controlling interest; and (ii) Archegos and the officers, directors, and affiliates of Archegos at all relevant times, including Hwang, members of their immediate families, their legal representatives, heirs, successors or assigns, and any entity in which Hwang has or had a controlling interest.

248. The members of the Class are so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to Plaintiffs at this time and can only be ascertained through appropriate discovery, Plaintiffs believe that there are at least hundreds or thousands of members of the proposed Class. The Company sold 23 million shares of Common Stock and 11.5 million shares of Preferred Stock in the respective Offerings. Record owners and other members of the Class may be identified from records maintained by Viacom or its transfer agent and may be notified of the pendency of this action by mail, using a form of notice similar to that customarily used in securities class actions. Beneficial owners may be identified from records maintained by their brokers or other custodians, using a form of notice similar to that

customarily used in securities class actions.

249. Plaintiffs' claims are typical of the claims of the members of the Class, as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of in this Complaint.

250. Plaintiffs will fairly and adequately protect the interests of the members of the Class and have retained counsel competent and experienced in class and securities litigation.

251. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

(a) whether the Securities Act was violated by Defendants' acts as alleged in this Complaint;

(b) whether the Offering Materials and statements made by Defendants to the investing public in connection with the Company's Offerings omitted or misstated material facts about the Conflicted Defendants' conflicts arising from their roles as underwriters in the Offerings and as Archegos's prime brokers;

(c) whether the Offering Materials and statements made by Defendants to the investing public in connection with the Company's Offerings omitted or misstated material facts about the Conflicted Defendants' large block sales of Viacom securities, before, during, and following the Offerings;

(d) whether Defendants violated their affirmative disclosure obligations and applicable SEC rules in conducting the Offerings;

(e) whether Defendants conducted a reasonable investigation into the Offering Materials' accuracy and completeness; and

(f) whether the members of the Class have sustained damages and the proper measure of damages.

252. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy, since joinder of all members is impracticable.

253. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation makes it impossible for members

of the Class to individually redress the wrongs done to them.

254. There will be no difficulty in the management of this action as a class action.

AS AND FOR A FIRST CAUSE OF ACTION FOR VIOLATIONS OF SECTION 11 OF THE SECURITIES ACT
(Against All Defendants)

255. Plaintiffs repeat and reallege each allegation contained above as if fully stated in this Count.

256. This Count is brought under Section 11 of the Securities Act, 15 U.S.C. § 77k, on behalf of the Class, against the Defendants.

257. This Count does not sound in fraud. Plaintiffs need not allege or establish that any of the Defendants committed intentional or reckless misconduct or that any of the Defendants acted with scienter or fraudulent intent, which are not elements of a Section 11 claim. This claim is based solely on negligence.

258. The Offering Materials for the Offerings were inaccurate and misleading, contained untrue statements of material fact, omitted to state other facts necessary to make the statements made not misleading, and omitted to state material facts required to be stated therein.

259. Viacom is the registrant for the Offerings. All Defendants were responsible for the contents and dissemination of the Offering Materials.

260. As issuer of the shares, Viacom is strictly liable to Plaintiffs and the Class for the misstatements and omissions in the Offering Materials.

261. None of the Defendants made a reasonable investigation or possessed reasonable grounds for the belief that the statements contained in the Offering Materials were true and without omissions of any material facts and were not misleading.

262. To the extent any of the non-lead underwriters relied on any purported due-diligence investigation by lead underwriters and Joint Book-Running Managers Morgan Stanley

and J.P. Morgan, or Co-Managers Goldman Sachs, Citigroup, Mizuho, and Siebert Williams Shank, the non-lead and non-book-running underwriters are responsible for the inadequate investigation undertaken by the lead underwriters and Joint Book-Running Managers as their agents.

263. None of the untrue statements or omissions of material fact in the Offering Materials alleged in this Complaint was a forward-looking statement. Rather, each such statement concerned existing facts. Moreover, the Offering Materials did not properly identify any of the untrue statements as forward-looking statements and did not disclose information that undermined the putative validity of those statements.

264. By reasons of the conduct alleged in this Complaint, each Defendant violated Section 11 of the Securities Act.

265. Plaintiffs purchased Viacom Common Stock and Preferred Stock pursuant to the Offering Materials for the Offerings.

266. Plaintiffs and the Class have sustained damages. The value of Viacom Common Stock and Preferred Stock has declined substantially subsequent to the Defendants' violations.

267. At the time of the Offerings, Plaintiffs and other members of the Class did not know, and in the exercise of reasonable diligence could not have known, of the inaccurate statements and omissions contained in the Offering Materials.

268. This claim is brought within the applicable statute of limitations.

269. By reason of the foregoing, Defendants have violated Section 11 of the Securities Act.

AS AND FOR A SECOND CAUSE OF ACTION FOR VIOLATIONS OF SECTION 12(a)(2) OF THE SECURITIES ACT (Against Viacom and the Underwriter Defendants)

270. Plaintiffs repeat and reallege each allegation contained above, as if fully stated in

this Count.

271. This Count is brought under Section 12(a)(2) of the Securities Act, 15 U.S.C. § 77*l*(a)(2), on behalf of the Class, against Viacom and the Underwriter Defendants.

272. This Count does not sound in fraud. Plaintiffs need not allege or establish that any of the Defendants committed intentional or reckless misconduct or that any of the Defendants acted with scienter or fraudulent intent, which are not elements of a Section 12(a)(2) claim. This Count is based solely on negligence.

273. By means of the defective Offering Materials, Viacom and the Underwriter Defendants promoted, solicited, and sold Viacom Common Stock and Preferred Stock to Plaintiffs and other members of the Class.

274. Plaintiffs purchased Viacom Common Stock and Preferred Stock pursuant to the Offering Materials for the Offerings.

275. The Offering Materials for the Common Offering and the Preferred Offering contained untrue statements of material fact and omitted to disclose material facts, as detailed above. Defendants owed Plaintiffs, and the other members of the Class who purchased Viacom Common Stock or Preferred Stock pursuant to the respective Offering Materials, the duty to make a reasonable and diligent investigation of the statements contained in the Offering Materials, to ensure that these statements were true and that there was no omission of a material fact required to be stated, in order to make the statements contained in the Offering Materials not misleading. Defendants knew or, in the exercise of reasonable care, should have known of the misstatements and omissions contained in the Offering Materials, as alleged above.

276. By virtue of each Defendants' failure to exercise reasonable care, the Offering Materials contained material misrepresentations of material facts and omissions of facts necessary

to make the statements therein not materially misleading. Thus, each Defendant named in this Count is liable under Section 12(a)(2) of the Securities Act to Plaintiffs and the other members of the Class.

277. To the extent any of the non-lead underwriters relied on any purported due-diligence investigation by lead underwriters and Joint Book-Running Managers Morgan Stanley and J.P. Morgan, or Co-Managers Goldman Sachs, Citigroup, Mizuho, and Siebert Williams Shank, the non-lead and non-book-running underwriters are responsible for the inadequate investigation undertaken by the lead underwriters and Joint Book-Running Managers as their agents.

278. Plaintiffs did not know, nor in the exercise of reasonable diligence could Plaintiffs have known, of the untruths and omissions contained in the Offering Materials at the time Plaintiffs acquired Viacom Common Stock and Preferred Stock.

279. None of the untrue statements or omissions of material fact in the Offering Materials alleged in this Complaint was a forward-looking statement. Rather, each such statement concerned existing facts. Moreover, the Offering Materials did not properly identify any of the untrue statements as a forward-looking statement and did not disclose information that undermined the putative validity of those statements.

280. By reason of the conduct alleged in this Complaint, Viacom and the Underwriter Defendants violated Section 12(a)(2) of the Securities Act. Accordingly, Plaintiffs and the other members of the Class who hold the Common Stock or Preferred Stock issued pursuant to the respective Offering Materials have the right to rescind and recover the consideration paid for their shares, and hereby tender their Common Stock and Preferred Stock to the Defendants sued in this Count. Class members who have sold their Viacom Common Stock or Preferred Stock seek

damages to the extent permitted by law.

AS AND FOR A THIRD CAUSE OF ACTION FOR VIOLATIONS OF SECTION 15 OF THE SECURITIES ACT
(Against the Individual Defendants)

281. Plaintiffs repeat and re-allege each allegation contained above as if fully stated in this Count.

282. The Individual Defendants, by virtue of their offices, directorships, and specific acts were, at the time of the wrongs alleged in this Complaint, controlling persons of Viacom within the meaning of Section 15 of the Securities Act. The Individual Defendants had the power and influence and exercised the same to cause Viacom to engage in the acts described in this Complaint.

283. By virtue of the conduct alleged in this Complaint, the Individual Defendants are liable for the aforesaid wrongful conduct and are liable to Plaintiffs and the Class for damages suffered.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief and judgment, as follows:

(a) Determining that this action is a proper class action under Article 9 of the New York Civil Practice Law & Rules;

(b) Awarding compensatory damages in favor of Plaintiffs and the other Class members against all Defendants for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

(c) Awarding Plaintiffs and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

(d) Such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiffs demand a trial by jury.

Dated: November 5, 2021

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