

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

FUND LIQUIDATION HOLDINGS LLC, as assignee
and successor-in-interest to FrontPoint Asian Event
Driven Fund L.P., MOON CAPITAL PARTNERS
MASTER FUND LTD., and MOON CAPITAL
MASTER FUND LTD., on behalf of themselves and all
others similarly situated,

Plaintiffs,

Docket No. 16-cv-05263 (AKH)

ECF Case

-against-

CITIBANK, N.A., BANK OF AMERICA, N.A.,
JPMORGAN CHASE BANK, N.A., THE ROYAL
BANK OF SCOTLAND PLC, UBS AG, BNP
PARIBAS, S.A., OVERSEA-CHINESE BANKING
CORPORATION LTD., BARCLAYS BANK PLC,
DEUTSCHE BANK AG, CREDIT AGRICOLE
CORPORATE AND INVESTMENT BANK,
CREDIT SUISSE AG, STANDARD CHARTERED
BANK, DBS BANK, LTD., ING BANK, N.V.,
UNITED OVERSEAS BANK LIMITED,
AUSTRALIA AND NEW ZEALAND BANKING
GROUP, LTD., THE BANK OF TOKYO-
MITSUBISHI UFJ, LTD., THE HONGKONG AND
SHANGHAI BANKING CORPORATION
LIMITED, COMMERZBANK AG, AND JOHN
DOES NOS. 1-50

Defendants.

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR LEAVE
TO FILE A SUR-REPLY**

Defendants' Reply briefing in support of their motion to dismiss the Fourth Amended Class Action Complaint, ECF Nos. 456-57, relies heavily on a brand-new decision of the Second Circuit, issued after Plaintiffs filed their Opposition to the same motion. *See Schwab Short-Term Bond Market Fund v. Lloyds Banking Group plc*, 2021 WL 6143556 (2d Cir. Dec. 30, 2021) ("*Schwab IP*"). Plaintiffs Moon Capital Partners Master Fund Ltd., Moon Capital Master Fund Ltd., and Fund Liquidation Holdings LLC ("Plaintiffs") therefore respectfully move this Court for an order granting leave to file a sur-reply memorandum of law for the limited purpose of responding to Defendants' new arguments based on *Schwab II*, as well as correcting a mischaracterization of Plaintiffs' position on timeliness.

Sur-reply briefing is warranted in exactly these circumstances, when the timing of new, relevant authority allowed only one side to brief its application to the pending motion. *See Roman Catholic Archdiocese of N.Y. v. Sebelius*, No. 1:12-cv-02542, ECF Nos. 108-10 (E.D.N.Y. Nov. 19, 2013) (granting leave to defendants to file a sur-reply brief to address the relevance of two brand new Court of Appeals decisions that they could not address in their opposition briefing, but plaintiffs had addressed in their reply). *See also Mobile Real Estate, LLC v. NewPoint Media Group, LLC*, 460 F. Supp. 3d 457, 468 (S.D.N.Y. 2020) (granting defendants' motion for leave to file a sur-reply on the grounds that plaintiffs "improperly raised an argument for their first time in their Reply"). Sur-reply briefing is also appropriate "to correct a misstatement in [a movant's] reply papers." *Weinstein v. Islamic Rep. of Iran*, 624 F. Supp. 2d 272, 273 n.1 (E.D.N.Y. 2009).

Plaintiffs will file their sur-reply, substantially in the form of the proposed memorandum attached hereto as Exhibit A, no later than seven days after the Court grants this motion.

Dated: January 24, 2022
White Plains, New York

Respectfully submitted,

LOWEY DANNENBERG, P.C.

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