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9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA

11 \_\_\_\_\_, Individually and on behalf of  
12 all others similarly situated,

13 Plaintiff,

14 v.

15 BANK HAPOALIM B.M., ARIK  
16 PINTO, and ODED ERAN,

17 Defendants.  
18

No.

19 **CLASS ACTION COMPLAINT  
20 FOR VIOLATIONS OF THE  
21 FEDERAL SECURITIES LAWS**

22 CLASS ACTION

23 JURY TRIAL DEMANDED  
24  
25  
26  
27  
28

1 Plaintiff \_\_\_\_\_ (“Plaintiff”), individually and on behalf of all other  
2 persons similarly situated, by Plaintiff’s undersigned attorneys, for Plaintiff’s  
3 complaint against Defendants (defined below), alleges the following based upon  
4 personal knowledge as to Plaintiff and Plaintiff’s own acts, and information and  
5 belief as to all other matters, based upon, *inter alia*, the investigation conducted  
6 by and through his attorneys, which included, among other things, a review of the  
7 Defendants’ public documents, conference calls and announcements made by  
8 Defendants, public filings, wire and press releases published by and regarding  
9 Bank Hapoalim B.M. (“Bank Hapoalim,” “Hapoalim,” “The Bank Group,” or the  
10 “Company”), and information readily obtainable on the Internet. Plaintiff  
11 believes that substantial evidentiary support will exist for the allegations set forth  
12 herein after a reasonable opportunity for discovery.

13 **NATURE OF THE ACTION**

14 1. This is a class action on behalf of persons or entities who purchased  
15 or otherwise acquired publicly traded Bank Hapoalim securities between August  
16 19, 2015 and April 30, 2020, inclusive (the “Class Period”). Plaintiff seeks to  
17 recover compensable damages caused by Defendants’ violations of the federal  
18 securities laws under the Securities Exchange Act of 1934 (the “Exchange Act”).

19 **JURISDICTION AND VENUE**

20 2. The claims asserted herein arise under and pursuant to Sections  
21 10(b) and 20(a) of the Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule  
22 10b-5 promulgated thereunder by the SEC (17 C.F.R. § 240.10b-5).

23 3. This Court has jurisdiction over the subject matter of this action  
24 pursuant to 28 U.S.C. § 1331, and Section 27 of the Exchange Act (15 U.S.C.  
25 §78aa).

26 4. This Court has jurisdiction over each defendant named herein  
27 because each defendant has sufficient minimum contacts with this judicial district  
28

1 so as to render the exercise of jurisdiction by this Court permissible under  
2 traditional notions of fair play and substantial justice. Bank Hapoalim also  
3 operates a branch at 555 South Flower St, Suite 4210, Los Angeles, CA 90071.

4 5. Venue is proper in this judicial district pursuant to 28 U.S.C. §  
5 1391(b) and Section 27 of the Exchange Act (15 U.S.C. § 78aa(c)) as the alleged  
6 misstatements entered, the subsequent damages took place in.

7 6. In connection with the acts, conduct and other wrongs alleged in this  
8 complaint, defendants, directly or indirectly, used the means and instrumentalities  
9 of interstate commerce, including but not limited to, the United States mails,  
10 interstate telephone communications and the facilities of the national securities  
11 exchange.

## 12 **PARTIES**

13 7. Plaintiff, as set forth in the accompanying Certification, purchased  
14 the Company's securities at artificially inflated prices during the Class Period and  
15 was damaged upon the revelation of the alleged corrective disclosure.

16 8. Defendant Bank Hapoalim purports to, together with its subsidiaries,  
17 provide a range of banking and financial products and services in Israel and  
18 internationally.

19 9. Bank Hapoalim is incorporated in Israel and its head office is located  
20 at 104 Hayarkon Street, Tel Aviv, Israel 63432. Bank Hapoalim's sponsored  
21 American depository receipts ("ADRs") trade on the OTC Pink Market under the  
22 ticker symbol "BKHY.".

23 10. Defendant Arik Pinto ("Pinto") served as Chief Executive Officer  
24 ("CEO") and President of the Company from August 2016 until October 2019  
25 and previously was Deputy CEO and Chief Operating Officer during his 40-year  
26 tenure with Bank Hapoalim.  
27  
28

1           11. Defendant Oded Eran (“Eran”) has served as the Chairman of the  
2 Board of Directors of the Company since January 1, 2017.

3           12. Defendants Pinto and Eran are collectively referred to herein as the  
4 “Individual Defendants.”

5           13. Each of the Individual Defendants:

- 6           (a) directly participated in the management of the Company;  
7           (b) was directly involved in the day-to-day operations of the  
8 Company at the highest levels;  
9           (c) was privy to confidential proprietary information concerning  
10 the Company and its business and operations;  
11           (d) was directly or indirectly involved in drafting, producing,  
12 reviewing and/or disseminating the false and misleading  
13 statements and information alleged herein;  
14           (e) was directly or indirectly involved in the oversight or  
15 implementation of the Company’s internal controls;  
16           (f) was aware of or recklessly disregarded the fact that the false  
17 and misleading statements were being issued concerning the  
18 Company; and  
19           (g) approved or ratified these statements in violation of the federal  
20 securities laws.

21           14. The Company is liable for the acts of the Individual Defendants and  
22 its employees under the doctrine of *respondeat superior* and common law  
23 principles of agency because all of the wrongful acts complained of herein were  
24 carried out within the scope of their employment.

25           15. The scienter of the Individual Defendants and other employees and  
26 agents of the Company is similarly imputed to the Company under *respondeat*  
27 *superior* and agency principles.  
28

1 16. The Company and Individual Defendants are referred to herein,  
2 collectively, as the “Defendants.”

3 **SUBSTANTIVE ALLEGATIONS**

4 **Materially False and Misleading**

5 **Statements Issued During the Class Period**

6 17. On August 19, 2015, Bank Hapoalim released its Q2 Condensed  
7 Financial Statement as at June 30, 2015 (the “Q2 15 Report”). The Q2 15 Report  
8 stated the following, in pertinent part, regarding the U.S. investigations related to  
9 the Company’s Swiss subsidiary and its Miami branch connected to American tax  
10 evasion and international soccer bribery:

11 **Contingent Liabilities**

12 The Bank Group is a party to legal proceedings taken against it by  
13 customers, by former customers, and by various third parties who  
14 believe they have suffered harm or damages resulting from the Bank  
15 Group’s activity. *The Group is also subject to investigation by*  
16 *American authorities*, as described in Note 6F to the Condensed  
17 Financial Statements, “Business of the Bank Group with American  
18 Clients.”

19 *The Bank’s Board of Management has included sufficient*  
20 *provisions in the financial statements to cover possible damages,*  
21 based on legal opinions. In most legal proceedings, and in connection  
22 with the investigations of various authorities, opinions are obtained  
23 from legal advisors external to the Bank Group, and reviewed by  
24 legal counsels employed by the Bank. These evaluations are based on  
25 the best judgment of the legal advisors, taking into consideration the  
26 stage at which the proceedings are at present and the legal experience  
27 accumulated on these matters in Israel and worldwide.

28 \* \* \*

On May 27, 2015, the United States Department of Justice  
announced the existence of an indictment filed with the Federal Court  
in New York against 14 senior officials of the Fédération

1 Internationale de Football Association (FIFA) in connection with  
2 suspected offenses of bribery, fraud, and related offenses. According  
3 to the indictment, some of the defendants maintained accounts with  
4 the Bank Group. Under these circumstances, the Bank Group is  
5 conducting internal examinations of the accounts pertaining to the  
6 investigation and *cooperating with the relevant authorities in  
7 connection with this matter, in accordance with the relevant laws.*

8 \* \* \*

9 Further to Note 19(E) to the Financial Statements of the Bank as at  
10 December 31, 2014, over the course of 2011, the Swiss authorities  
11 notified Bank Hapoalim (Switzerland) Ltd. (hereinafter: “Hapoalim  
12 Switzerland”) that several Swiss banks, including Hapoalim  
13 Switzerland, were being investigated by the US authorities,  
14 seemingly in connection with suspicions or concerns of assisting  
15 American clients in evading US tax. . .

16 Pursuant to a request by the Swiss authorities, these banks submitted  
17 statistical information with regard to their transactions with American  
18 clients to the Swiss authorities, which the Swiss authorities were to  
19 convey to the US authorities. In this context, during the second half  
20 of 2011, Hapoalim Switzerland submitted statistical information to  
21 the Swiss authorities, without submitting identifying information  
22 regarding the clients, such as the names of the clients. *Hapoalim  
23 Switzerland is cooperating with the Swiss authorities and acting in  
24 accordance with the legal directives to which it is subject. . . .*

25 The US Department of Justice announced that the Swiss  
26 Arrangement would not apply to 14 Swiss banks, the activity of  
27 which is being investigated. Therefore, Hapoalim Switzerland is not  
28 included in the Swiss Arrangement and, on August 29, 2013, the US  
Department of Justice sent a letter notifying the representative of  
Hapoalim Switzerland that it would not be included in the Swiss  
Arrangement, as it is subject to investigation. . . . Additional requests  
for the collection and submission of information and additional  
materials are likely to be received in the future. *The Bank, through  
its representatives, submitted and continues to submit information  
and various materials to the aforesaid authorities with regard to the  
activity of the Bank Group with American clients. The Bank,*

1 *through its representatives, continues to communicate and*  
2 *cooperate with the representatives of the aforesaid authorities, and*  
3 *representatives of the Bank are expected to continue to meet with*  
4 *representatives of the authorities.* Since 2011, the Bank Group has  
5 been assisted by outside counsel from the United States, Switzerland,  
6 and Israel, and certain internal reviews have been conducted  
7 regarding banking activities with American clients. *The Bank is*  
8 *continuing, and is expected to continue, to conduct internal*  
9 *reviews, among other matters, in order to collect the information*  
10 *and materials requested by the US authorities,* to the extent possible  
11 and within the bounds of the law.

12 At this stage, taking into account the fact that, as of the date of this  
13 report, the US authorities have not directed any specific claims  
14 against the Bank, and taking into account that the Bank Group is not  
15 conducting any negotiations with the US authorities and that one  
16 cannot draw an analogy with the events and results of Bank Leumi  
17 LeIsrael B.M. in this context, which differ from those of the Bank,  
18 and in light of legal opinions and the uncertainty resulting from all of  
19 the above, the Bank cannot assess the scope of the exposure in this  
20 matter. The Bank does not know whether or when it will be able to  
21 estimate the exposure in connection with the foregoing. . . .

22 Notwithstanding the above, the Supervisor of Banks, after inspecting  
23 the circumstances and for conservative accounting reasons, ordered  
24 the Bank, during 2014, to include a provision in its financial  
25 statements with respect to the aforementioned and later ordered the  
26 disclosure of this provision in the Annual Report for 2014.  
27 *Accordingly, the financial statements include a provision (which*  
28 *would not have been included in the financial statements if not for*  
*the Supervisor of Banks' order, for the reasons noted above), in an*  
*amount in NIS equal to USD 50 million.* In accordance with the  
directive of the Supervisor of Banks, *the amount of this provision*  
*was calculated on the basis of the estimated sum that Hapoalim*  
*Switzerland would probably have paid to the US authorities*  
*according to the formula established in the Swiss Arrangement, if*  
*Hapoalim Switzerland had been included in Category 2 within the*  
*Swiss Arrangement, despite the fact that the aforementioned*  
*provision refers to the Bank Group as a whole.* It is possible, in  
view of the existing uncertainty, as noted above, that the eventual

1 outcome will differ materially from the amount of the provision  
2 ordered by the Supervisor of Banks.

3 (Emphasis added.)

4 18. On December 4, 2016, Bank Hapoalim issued a press release entitled  
5 “Bank Hapoalim sells its Miami Branch's international private banking portfolio”  
6 which did not state the issues with Bank Hapoalim’s Miami branch and Full Play  
7 Group S.A. regarding the branch’s illegal bribes and kickbacks connected to the  
8 international soccer investigation by U.S. authorities.

9 19. On March 30, 2017, Bank Hapoalim published its Annual Report  
10 2016 which stated the following, in pertinent part, regarding the U.S.  
11 investigations:

12 However, during a meeting held on September 30, 2016, in the  
13 United States, with the DOJ [U.S. Department of Justice], certain  
14 possible methods of formulating an arrangement between the Bank  
15 Group and the DOJ were discussed, among other matters, and a  
16 preliminary discussion was held with regard to principles for the  
17 calculation of certain components that could be a part of the sum that  
18 the Bank Group may pay the DOJ within an agreed resolution, if and  
19 when the parties succeed in reaching an agreement with regard to  
20 such resolution. *Following the meeting, the Bank Group performed  
21 an initial estimate, based on which the decision was made to set the  
22 total provision at an amount in New Israeli Shekels equal to  
23 approximately 120 million US dollars. Accordingly, a provision in  
24 an amount in New Israeli Shekels equal to approximately USD 70  
25 million was recorded in the financial statements for the third  
26 quarter of 2016, in addition to the provision in the amount of USD  
27 50 million recorded in the financial statements in 2014.*

28 During the period from the date of publication of the financial  
statements for the period ended September 30, 2016 to the date of  
publication of this report, the Bank Group, through its representatives  
and legal advisors, continued to communicate and meet with the  
American authorities. Based on the aforesaid conversations and  
meetings, on additional examinations performed by the Bank Group



1 during the aforesaid period within the internal investigation, and on  
2 additional estimates (although such estimates are preliminary and are  
3 based on various assumptions), and after consulting with its legal  
4 advisors, *the aforesaid estimate was adjusted by an additional*  
5 *amount in New Israeli Shekels equal to approximately USD 25*  
6 *million, to a total amount of approximately USD 145 million (the*  
7 *“DOJ Provision”).* As the Bank estimates that it is also expected to  
8 pay amounts in respect of the NYDFS, and that such amounts may be  
9 significant, in the opinion of the Bank Group and of its legal  
10 advisors, at this stage it is not possible to reliably estimate the extent  
11 of the exposure on this matter. *However, the Supervisor of Banks,*  
12 *having examined the circumstances, and for reasons of*  
13 *conservative professional considerations, ordered the Bank to*  
14 *include a provision in the financial statements as at December 31,*  
15 *2016, in respect of exposure to the amounts that the Bank Group is*  
16 *expected to pay to US authorities other than the DOJ, at a rate of*  
17 *no less than 30% of the DOJ Provision as at December 31, 2016, as*  
18 *detailed above. Accordingly, the Bank increased the provision by an*  
19 *additional amount in New Israeli Shekels equal to a total of*  
20 *approximately USD 43.5 million* (a total of approximately NIS 167  
21 million). *The balance of the total provision in connection with the*  
22 *investigation by the American authorities as at December 31, 2016,*  
23 *is therefore an amount in New Israeli Shekels equal to*  
24 *approximately USD 188.5 million (a total of approximately NIS 724*  
25 *million).* In light of the foregoing, the Bank, based on its legal  
26 advisors, cannot reliably estimate the extent of the exposure or the  
27 range of the exposure of the Bank Group in connection with the  
28 investigation by the American authorities, and the eventual outcome  
may be different, such that the amounts paid within such resolutions  
(if attained) may be significantly higher than the amount of the  
provision.

*It is emphasized that this provision does not constitute admission of  
any allegation that may be directed at the Bank Group by the  
United States authorities and/or by any other party.*

\* \* \*

During 2015, the Department of Justice in the United States filed an  
indictment with the Federal Court in New York, charging high-

1 ranking officials of the Fédération Internationale de Football  
2 Association (FIFA) and others with allegations of committing  
3 bribery, fraud and related offenses. A superseding indictment was  
4 published in December 2015, replacing the original indictment.  
5 According to the original indictment and the superseding indictment,  
6 certain defendants held accounts at Bank Hapoalim (Switzerland)  
7 Ltd. and executed financial transactions allegedly related to the affair  
8 in these accounts.

9 According to reports, as part of this affair, the American authorities  
10 are also investigating various financial institutions. As part of this  
11 process, the Bank Group is also being investigated under the  
12 suspicion of violations of the law possibly committed in connection  
13 with bank accounts held at the Bank Group by certain defendants  
14 involved in the affair. Within this framework, the Bank was served  
15 with orders for discovery of documents and other various requests for  
16 data and information. Subject to the directives of the relevant laws  
17 that apply to the various entities within the Bank Group, ***information  
18 and documents with a significant volume were submitted to the  
19 authorities.*** The United States Department of Justice also conducted  
20 interviews with some employees of the Bank. ***The Bank Group, with  
21 the assistance of external attorneys, is also conducting its own  
22 internal investigation in connection with this matter and is  
23 cooperating with the relevant authorities.***

24 According to the opinion of the legal advisors of the Bank Group, at  
25 this stage it is not possible to estimate whether the Bank Group will  
26 bear any liability on the criminal, civil, or regulatory plane with  
27 regard to this matter; accordingly, no provision was included in the  
28 financial statements.

(Emphasis added.)

20. The Annual Report 2016, in its Letter from the Chairman of the  
Board of Directors signed by Defendant Eran, reaffirmed the Company's  
cooperation with the U.S. investigations: "The Bank will continue to attend to the  
investigation of the Bank Group's business with American clients and to invest  
the necessary resources."

1           21. The Annual Report 2016 stated the following regarding its Miami  
2 branch:

3           For some time, the Bank has been examining the deployment of its  
4 global private banking business, in order to adapt it to the changes  
5 that have occurred in the business and regulatory environment. *As a*  
6 *result of this examination, the Bank has decided to sell the portfolio*  
7 *of global private banking client assets at its Miami branch*, and to  
close its representative offices in Latin America by the end of the  
first half of 2017.

8           22. Also on March 30, 2017, Bank Hapoalim issued a press release  
9 entitled “Bank Hapoalim Announces 2016 Financial Results” in which Defendant  
10 Pinto was quoted, in pertinent part, stating:

11           I pledge that in the coming years we will continue to act transparently  
12 and fairly whilst demonstrating social responsibility. We will act to  
13 correct past mistakes and work to strengthen the trust of the public in  
14 the banking system in general and in Bank Hapoalim in particular.  
15 Our strategic plan will enable us to continue to work for the  
16 prosperity and wellbeing of people, businesses and communities. I  
17 believe that next year we will be able to present not only excellent  
18 business results, but also a fair, humane, transparent and social bank  
and in one sentence: a bank which is personal, human and  
technological.

19   \*           \*           \*

20           In the coming years we will accelerate the organic growth of the  
21 Middle Market activity in the US market by expanding the banking  
22 teams and entering additional areas and geographical locations.

23           (Emphasis added.)

24           23. The statements contained in ¶¶17-22 were materially false and/or  
25 misleading because they misrepresented and failed to disclose the following  
26 adverse facts pertaining to the Company’s business, operations and prospects,  
27 which were known to Defendants or recklessly disregarded by them. Specifically,  
28

1 Defendants made false and/or misleading statements and/or failed to disclose that:  
2 (1) Bank Hapoalim and its subsidiaries had actively assisted U.S. taxpayers to  
3 illegally evade U.S. taxes; (2) Bank Hapoalim and its subsidiaries had conspired  
4 to launder or laundered millions of dollars on behalf of Full Play Group, S.A.  
5 from its Miami branch; (3) as a result of the foregoing, Bank Hapoalim and its  
6 subsidiaries were likely to face increased regulatory scrutiny and investigations;  
7 (4) as opposed to its statements, Bank Hapoalim was not satisfactorily cooperating  
8 with the U.S. investigations once they began; (5) as a result, Bank Hapoalim  
9 would need to take significant additional financial provisions related to the US  
10 investigations; and (6) as a result, Defendants' statements about its business,  
11 operations, and prospects, were materially false and misleading and/or lacked a  
12 reasonable basis at all relevant times.

13 24. On March 25, 2018, Bank Hapoalim published its Annual Report  
14 2017 which stated the following, in pertinent part, regarding the U.S.  
15 investigations:

16 *The Bank's Board of Management has included sufficient*  
17 *provisions in the financial statements to cover the possible*  
18 *damages, based on legal opinions.* In most of the judicial  
19 proceedings, and in connection with investigations by various  
20 government agencies, opinions are obtained from legal advisors  
21 external to the Bank Group, and reviewed by legal counsels  
22 employed by the Bank. These evaluations are based on the best  
23 judgment of the legal advisors, taking into consideration the stage at  
24 which the proceedings are at present and the legal experience  
25 accumulated on these matters in Israel and worldwide. Estimates  
26 regarding provisions for judicial proceedings, investigations, and  
27 regulatory matters involve judgment, at a very high level in  
28 comparison to other types of provisions. When such proceedings are  
in initial stages, the determination whether the Bank has any liability,  
the establishment of a range of estimates, and the determination of  
the probability that the Bank may incur costs as a result of such  
liability entail significant uncertainty; in the case of matters with

1 respect to which no judicial proceeding is underway at the reporting  
2 date, the uncertainty increases further. As the proceedings progress,  
3 the Board of Management of the Bank and its legal advisors evaluate,  
4 periodically, whether it is necessary to include or update provisions  
5 in respect of the proceedings, updating the estimate performed in the  
6 preceding reporting period. The ability to perform estimates increases  
7 as the proceedings advance, but the amount of the provision remains  
8 sensitive to changes in assumptions.

9 \* \* \*

10 *In estimating the impacts of the aforesaid investigations, it is*  
11 *difficult to determine whether a loss is probable or possible,* and to  
12 estimate the expected amount of the loss, or even to estimate a range  
13 of exposures, and all the more so to estimate the probability of  
14 materialization of any particular scenario within the range of  
15 exposures prepared in order to determine the amount of the provision  
16 in the financial statements. In proceedings where the process of  
17 investigating the facts and collecting data is prolonged, it is  
18 sometimes only in the advanced stages of the proceedings that it  
19 becomes possible to reliably estimate the expected loss or the range  
20 of possible exposures. A significant degree of judgment must be  
21 exercised in estimating the amount of the loss in such cases, and as  
22 the event unfolds, it is possible that the amount of the loss may be  
23 significantly higher than the amount of the provision accrued at the  
24 date of the financial statements. Therefore, taking into consideration  
25 the significant uncertainty, the Bank estimates that the extent of the  
26 total exposure is larger than the amount of the provision included in  
27 the financial statements, such that the total amounts to be paid by the  
28 Bank Group within resolutions with the American authorities (if  
achieved) will be significantly higher than the amount of the  
provision, and there may therefore be a significant negative effect on  
the results of the Bank Group in the quarterly or annual reporting  
period in which the uncertainty is dispelled.

\* \* \*

Based on the foregoing and on the quantitative information regarding  
the American customers population available to the Bank Group as of  
the date of publication of this statements – information that is subject

1 to update and validation, as mentioned – *the Bank increased the*  
2 *provision in relation to the exposure stemming from the*  
3 *investigation of the United States authorities by approximately USD*  
4 *79.5 million during the fourth quarter of 2017, and this was added*  
5 *to the previous provisions totaling approximately USD 268.5*  
6 *million. Thus, as of December 31, 2017, the total provision in this*  
7 *regard is equal to an amount of approximately USD 348 million*  
8 *(approximately NIS 1,207 million). This amount also includes a*  
9 *provision in respect of exposure to the amounts towards other United*  
10 *States authorities (that are not the DOJ) in an amount of 30% of the*  
11 *provision in connection with the DOJ. This, in accordance with*  
12 *instruction provided to the Bank by the Supervision of Banks in*  
13 *relation to the Bank’s financial statements for December 31, 2016,*  
14 *after the Supervision of Banks assessed the relevant circumstances*  
15 *and for reasons of professional conservatism.*

16 \* \* \*

17 According to reports, as part of this affair, the American authorities  
18 are also investigating various financial institutions. As part of this  
19 process, the Bank Group is also being investigated under the  
20 suspicion of violations of the law in connection with bank accounts  
21 held at the Bank Group by certain defendants involved in the affair.  
22 Within this framework, the Bank was served with orders for  
23 discovery of documents and other various requests for data and  
24 information. Subject to the directives of the relevant laws that apply  
25 to the various entities within the Bank Group, *information and*  
26 *documents with a significant volume were submitted to the*  
27 *authorities.* The United States Department of Justice also conducted  
28 interviews with some employees of the Bank. *The Bank Group is*  
*making significant progress in an internal investigation that it is*  
*performing in connection with this matter, through external*  
*attorneys, and is cooperating with the authorities.*

(Emphasis added.)

25 25. The Annual Report 2017 stated the following, in pertinent part,  
26 regarding Hapoalim Switzerland:  
27

28 The activity of Hapoalim Switzerland was reduced during 2017, with

1 the closure of its Geneva branch and of its representative offices in  
2 Moscow and Mexico.

3 *In September 2017, the Bank decided to act to discontinue the*  
4 *activity of Hapoalim Switzerland, through the sale of its assets or by*  
5 *other means. The resolution was passed in view of the Bank's risk-*  
6 *management policy, which aims to minimize compliance risks in*  
7 *the Bank Group, including such risks as emerged in connection*  
8 *with the investigation by the United States authorities, and in view*  
9 *of the changes in the global regulatory environment and their effect*  
10 *on such risks.*

11 (Emphasis added.)

12 26. The Annual Report 2017, in its Letter from the Chairman of the  
13 Board of Directors signed by Defendant Eran, downplayed the U.S. investigations  
14 by stating:

15 **The investigation of the Bank Group's business with American**  
16 **clients – *Alongside other banks around the world, we continue to***  
17 ***cope with the United States government authorities' investigation of***  
18 ***the Bank Group's business with American clients.*** This  
19 investigation has entailed substantial monetary expenses, significant  
20 effort of those employees who are involved in the process, and  
21 extensive management attention. ***It is our hope that this matter can***  
22 ***be concluded soon,*** but we realize that until the process is complete,  
23 uncertainty regarding the nature of its resolution and the costs for the  
24 Bank will persist.

25 (Emphasis added.)

26 27. The Annual Report 2017's Letter from the Chairman also stated the  
27 following regarding Hapoalim Switzerland:

28 We have studied the history of the crisis, and we are aware of our  
weighty responsibility to manage our business carefully, to strictly  
ensure the quality of our credit portfolio, to evaluate scenarios that  
may threaten the economy, and to consider the business risks  
involved in our activity. ***In this context, in 2017, the Board of***

1 *Directors of the Bank resolved to act to discontinue the operations*  
2 *of Bank Hapoalim (Switzerland) Ltd. The resolution was passed in*  
3 *view of the Bank's risk-management policy, which aims, and will*  
4 *continue to aim, to minimize compliance risks in the Bank Group,*  
5 *including such risks as emerged in connection with the*  
6 *investigation by the United States authorities, and in view of the*  
7 changes in the global regulatory environment and their effect on such  
8 risks.

9 (Emphasis added.)

10 28. On March 18, 2019, Bank Hapoalim published its Annual Report  
11 2018 which included a Letter from the Chairman of the Board of Directors signed  
12 by Defendant Eran, which stated the following, in pertinent part, regarding the  
13 U.S. investigations:

14 The Bank is still coping with the burden of the US investigations.  
15 *These investigations led to significant expenses this year, and*  
16 *demanded valuable management attention and resources, and in*  
17 *the fourth quarter, we added a total of NIS 922 million to the*  
18 *provision for penalties.* We also noted that the overall amounts that  
19 the Bank Group will pay in the framework of resolutions with the US  
20 authorities (to the extent reached) are likely to be significantly higher  
21 than the present provision. *For reasons of conservatism* and in  
22 coordination with the Bank of Israel, the Board of Directors of the  
23 Bank did not pay cash dividends for the last three quarters of 2018,  
24 with no change to the Bank's dividend distribution policy. We will  
25 continue to act resolutely to bring this matter to conclusion as quickly  
26 as possible. . . .

27 *We accord high importance to adherence to the law and to*  
28 *regulatory requirements (in Israel and elsewhere), while strictly*  
*maintaining ethical rules and upholding clear standards of worthy*  
*conduct.*

(Emphasis added.)

29. The Annual Report 2018 stated the following, in pertinent part,



1 regarding the Hapoalim Switzerland:

2 The loss of Bank Hapoalim Switzerland totaled approximately NIS  
3 1,209 million in 2018, compared with a loss in the amount of  
4 approximately NIS 373 million in the preceding year. *The increase*  
5 *in loss mainly resulted from an increase in the provision in*  
6 *connection with the investigation of the Bank Group’s business*  
7 *with American customers at Bank Hapoalim Switzerland and in the*  
8 *related legal expenses, and from costs arising from the decision to*  
9 *discontinue the activity of Hapoalim Switzerland during the second*  
10 *half of 2017.* The increase in loss was partly offset by income from  
11 the sale of part of the private banking customer asset portfolio.

12 (Emphasis added.)

13 30. The Annual Report 2018 stated the following, in pertinent part,  
14 regarding the U.S. investigations:

15 During 2011, following the notification of Bank Hapoalim  
16 (Switzerland) Ltd. (hereinafter: “Hapoalim Switzerland”) by the  
17 Swiss authorities that a number of Swiss banks, including Hapoalim  
18 Switzerland, were *under investigation by the United States*  
19 *authorities in connection with suspicions or concerns of assistance*  
20 *to American customers in evading taxes of the United States*  
21 *authorities*, Hapoalim Switzerland submitted statistical information  
22 to the Swiss authorities regarding its business with American  
23 customers, in order for this information to be conveyed to the United  
24 States authorities. On August 29, 2013, it was announced that the  
25 United States and Swiss authorities had reached an agreement (the  
26 “Swiss Bank Program”), within which Category 2 Swiss banks that  
27 would choose to join the Swiss Bank Program and comply with its  
28 terms (including the payment of a fine and the submission of  
extensive information regarding the accounts of their American  
customers, funds received from other banks, and more) would not be  
prosecuted in the United States in connection with the matters  
covered by the program. The Swiss Bank Program defines “Category  
2” as a category referring to banks that are not under investigation  
and can join the program and sign a non-prosecution agreement. *On*  
*the same day, the United States Department of Justice notified the*  
*counsel for Hapoalim Switzerland, via letter, that, pursuant to the*

1 *provisions of the program, Hapoalim Switzerland would not be*  
2 *included, as it is subject to an investigation.* The aforementioned  
3 letter did not specify any claims or demands whatsoever.

4 From the beginning of 2015, following demands and requests  
5 received at the Bank from the United States Department of Justice  
6 (the DOJ), the New York Department of Financial Services (the  
7 NYDFS), and the Federal Reserve, *the Bank Group, assisted by its*  
8 *legal counsels, has provided the aforesaid United States authorities*  
9 *with data, information, and documents from the Bank Group in*  
10 *relation to the activities of the Bank Group with American*  
11 *customers, to the extent possible and permitted by law.* The  
12 investigation, and the gathering of information and documents, as  
13 well as the update and validation of the quantitative database of the  
14 American customers of the Bank and of Hapoalim Switzerland  
15 (including the branch in Luxembourg, and the branch in Singapore  
16 which was closed in 2012), are in advanced stages. *As part of the*  
17 *investigation, quantitative data and information about American*  
18 *customers of the Bank and of Hapoalim Switzerland were provided*  
19 *to the United States authorities.* In addition, at the request of the  
20 DOJ, the quantitative data, the methodology, and the investigation  
21 methods undertaken by the Bank Group are being examined and  
22 validated in parallel by third parties (Independent Examiner), this  
23 process has not yet been completed. At this stage, as the investigation  
24 of the United States authorities has not ended, no agreement has been  
25 reached yet regarding a resolution or resolutions that may be reached  
26 (if reached) with any of the United States authorities, and no  
27 agreement has been reached regarding the amounts which the Bank  
28 will be required to pay, or regarding the type of resolution or  
resolutions.

22 There is a range of possibilities for the level of severity of the  
23 resolutions and the level of culpability for offenses under United  
24 States laws that the Bank and Hapoalim Switzerland will be required  
25 to assume within the resolution or resolutions (if reached). At this  
26 time, it appears that a resolution or resolutions with the DOJ may be  
27 in the form of a deferred prosecution agreement or a plea agreement.  
28 An array of considerations may adversely affect the resolution or  
resolutions (if reached), including possible arguments with respect to  
certain actions of former senior employees of Hapoalim Switzerland

1 that have emerged in the investigation, the nature and scope of  
2 cooperation with the DOJ, and the findings with respect to the  
3 severity of the acts and the scope of the activities.

4 In recent weeks, the Bank continued to hold discussions with the  
5 DOJ. As part of these meetings, discussions have begun regarding the  
6 methodology for calculation of the amounts that the Bank Group will  
7 be required to pay the DOJ within a possible resolution or  
8 resolutions. *Following this, and based on data collected and*  
9 *processed by the Bank Group during this period, in the fourth*  
10 *quarter of 2018 the Bank increased the amount of the provision for*  
11 *the exposure arising from the investigation of the United States*  
12 *authorities by a total of approximately USD 246 million*  
13 *(approximately NIS 922 million), which was added to past*  
14 *provisions totaling approximately USD 365 million. As at*  
15 *December 31, 2018, the total provision for this matter is equal to an*  
16 *amount of approximately USD 611 million* (approximately NIS  
17 2,290 million). This amount also includes, as noted, a provision in  
18 respect of the exposure to amounts for other United States authorities  
19 (other than the DOJ), at a rate of 30% of the amount of the provision  
20 in respect of the DOJ, further to the instruction given by the Banking  
21 Supervision Department to the Bank with respect to the Financial  
22 Statements of the Bank as at December 31, 2016 – see the statement  
23 on this matter in Note 26D to the Annual Financial Statements of the  
24 Bank for 2016.

25 The total amount of the provision includes provision for the three  
26 components that, in the Bank's best judgment at this time, and based  
27 on the opinion of the Bank's US legal counsel, following the progress  
28 of the discussions described above with the DOJ, are expected to be  
included in a resolution, if and when reached, namely – the  
component of tax that certain American customers of the Bank Group  
were liable to pay to the United States tax authorities, the component  
of income of the Bank Group from American customers, as noted,  
and a component of the penalty which the Bank Group may pay.  
Although these are separate and different components under United  
States law, to the best of the Bank's knowledge, there is certain  
interplay among these components, which makes it difficult to  
predict the method of calculation of the total amount to be paid  
within a resolution, if formulated. As noted above, the aforesaid

1 amounts also include a provision at a rate of 30% of the amount of  
2 the provision in respect of the DOJ, for the exposure to other United  
3 States authorities.

4 The provision was calculated based on the quantitative information  
5 available to the Bank Group in respect of these customers, as at the  
6 date of publication of the financial statements. Before the American  
7 customers database is fully updated and validated and agreements are  
8 reached with the United States authorities regarding the criteria for  
9 determining the population of customers relevant for the calculation,  
10 the periods relevant for the calculation, the components of the  
11 calculation and the calculation methods, the Bank Group and its legal  
12 counsels are unable to reasonably estimate the extent or range of the  
13 exposure, both from a financial aspect and with respect to other  
14 possible implications. Accordingly, as the Bank Group or its legal  
15 counsels are unable to reasonably estimate the expected loss due to  
16 the consequences of the investigation or the scope and range of the  
17 exposure, the provision included by the Bank is calculated based on  
18 the Bank's estimate of the minimum amount of the exposure,  
19 according to the methodology presented to the DOJ, in accordance  
20 with the accounting principles applicable to the Bank. The amounts  
21 of the payment include certain deductions and exclusions which are  
22 subject to approval by the DOJ. Although the Bank estimates that it  
23 is likely to also pay amounts to other authorities within a resolution  
24 or resolutions with them (if and as formulated), and it is possible that  
25 these amounts will be significant, at this stage negotiations with the  
26 other authorities regarding amounts which the Bank Group will be  
27 required to pay within a resolution or resolutions with them (if  
28 reached) have not yet begun. Accordingly, the Bank Group and its  
legal counsels are also unable to reasonably estimate the extent of the  
exposure with respect to other authorities.

The Bank estimates that it is likely that the aggregate total to be paid  
by the Bank Group within resolutions with the DOJ and other  
authorities (if reached) will be significantly higher than the amount of  
the provision, although it is unable to estimate these amounts, as  
noted above.

In the context of the internal investigation that the Bank is  
conducting in connection with the investigation of the United States

1 authorities, the Bank became aware that during the operation of one  
2 of its computer systems, which is used, among other things, for  
3 secure information transfers and correspondence between different  
4 units of the Bank Group in Israel and abroad, documents and  
5 information of these units, including documents and information  
6 from branches of Hapoalim Switzerland, were stored on or accessible  
7 from the Bank's servers in the United States, in a manner that might  
8 not be consistent with bank secrecy and privacy protection laws and  
9 regulations. The Bank, with the assistance of external advisors, is  
10 acting to map the materials in order to determine their scope and  
11 content, and has updated the relevant government authorities on this  
12 matter. In this context, and in light of the proceedings in the United  
13 States, the Bank has taken steps to maintain the aforementioned  
14 system and the documents and information retained therein in their  
15 present state, and delivered certain information and documents to the  
16 United States authorities, of the information retained on the Bank's  
17 servers in the United States, further to their demand. The Bank Group  
18 is examining the legal and regulatory implications, which also  
19 include financial exposures, the probability and scope of which are  
20 difficult to assess at this stage.

21 Before the date of approval of the financial statements for the second  
22 quarter of 2018, the Banking Supervision Department notified the  
23 Bank that in light of the substantive uncertainty with respect to the  
24 investigation of the United States authorities, and *for reasons of*  
25 *caution and conservatism*, the Banking Supervision Department was  
26 of the opinion that, at this time, dividends should not be distributed  
27 by the Bank. Accordingly, for reasons of conservatism and in  
28 coordination with the Bank of Israel, the Board of Directors of the  
Bank did not declare the distribution of a dividend from the profits of  
the second, third, and fourth quarters of 2018, with no change to the  
Bank's dividend distribution policy. See also Note 24 to the Financial  
Statements.

*It is emphasized that the provision made up to this point or the  
specification of the extent of the exposure, as noted, do not  
constitute admission of any claim that may be directed at the Bank  
Group by the United States authorities or by any other party.*

(Emphasis added.)

1           31. The Annual Report 2018 stated the following, in pertinent part,  
2 regarding the international soccer investigation:

3           According to reports, as part of this affair, the American authorities  
4 are also investigating various financial institutions. As part of this  
5 process, *the DOJ is investigating whether the Bank Group violated*  
6 *criminal statutes in the United States relating to fraud and money*  
7 *laundering in connection with bank accounts held at the Bank*  
8 *Group by certain defendants involved in the affair.* Within this  
9 framework, the Bank was served with orders for discovery of  
10 documents and other various requests for data and information.  
11 Subject to the directives of the relevant laws that apply to the various  
12 entities within the Bank Group, *information and documents of a*  
13 *significant volume were submitted to the authorities.*

14           The United States Department of Justice also conducted interviews  
15 with some employees of the Bank. The Bank Group is making  
16 significant progress in an internal investigation that it is performing  
17 in connection with this matter, through external attorneys, and is  
18 cooperating with the authorities. According to the opinion of the  
19 legal advisors of the Bank Group, at this stage it is not possible to  
20 estimate whether the Bank Group will bear any liability on the  
21 criminal, civil, or regulatory plane with regard to this matter;  
22 accordingly, no provision was included in the financial statements.

23           (Emphasis added.)

24           32. The statements contained in ¶¶ 24-31 were materially false and/or  
25 misleading because they misrepresented and failed to disclose the following  
26 adverse facts pertaining to the Company's business, operations and prospects,  
27 which were known to Defendants or recklessly disregarded by them. Specifically,  
28 Defendants made false and/or misleading statements and/or failed to disclose that:  
(1) Bank Hapoalim and its subsidiaries had actively assisted U.S. taxpayers to  
illegally evade U.S. taxes; (2) Bank Hapoalim had conspired to launder or  
laundered millions of dollars on behalf of Full Play Group, S.A. from its Miami

1 branch; (3) as a result of the foregoing, Bank Hapoalim and its subsidiaries were  
2 likely to face increased regulatory scrutiny and investigations; (4) as opposed to  
3 its statements, Bank Hapoalim was not satisfactorily cooperating with the U.S.  
4 investigations once they began; (5) as a result, Bank Hapoalim would need to take  
5 significant additional financial provisions related to the US investigations; and (6)  
6 as a result, Defendants' statements about its business, operations, and prospects,  
7 were materially false and misleading and/or lacked a reasonable basis at all  
8 relevant times.

9 **THE TRUTH IS REVEALED**

10 33. On March 18, 2020, Bank Hapoalim announced in an Israeli  
11 regulatory filing that:

12 According to the current indications received from the teams  
13 handling the investigations from each of the U.S. Authorities, and  
14 subject to the requisite above described approvals, to resolve the  
15 investigations, ***the Bank Group will be required to pay a total***  
16 ***amount (for all three U.S. Authorities) of approximately USD 870***  
17 ***million*** (approximately NIS 3,007 million, based on the exchange  
rate as of 31.12.2019).

18 As a result, and based on the opinion of its legal counsels, in the  
19 fourth quarter of 2019, the Bank increased the provision in relation to  
20 the exposure in connection with the investigations of the U.S.  
21 Authorities by approximately USD 259 million (approximately NIS  
22 897 million). This provision is in addition to the previous provisions  
23 totaling approximately USD 611 million. As of December 31, 2019,  
24 the total provision for this matter is equal to an aggregate amount of  
25 approximately USD 870 million (approximately NIS 3,007 million,  
based on the exchange rate as of the said date).

26 \* \* \*

27 Recently, the Bank Group and the DOJ prosecution team handling  
28 the investigation have extensively negotiated the terms of a  
resolution, which, once approved by the DOJ and the Bank Group

1 and finalized, would resolve the investigation against the Bank Group  
2 in connection with the FIFA matter. Based upon the terms that have  
3 been negotiated and that are subject to the above-mentioned  
4 approvals, the Bank and Hapoalim (Switzerland) Ltd. will enter into  
5 a non-prosecution agreement (which does not involve criminal  
6 charges, an indictment, or a criminal conviction against the Bank  
7 Group) with the DOJ. Pursuant to the non-prosecution agreement, ***the***  
8 ***Bank Group will pay the U.S. Government an amount of***  
9 ***approximately USD 30 million (approximately NIS 103 million).*** In  
10 light of the above, the Bank included in its annual financial  
11 statements for the year 2019 a provision in the sum of USD 30  
12 million (approximately NIS 103 million based on the exchange rate  
13 as of 31.12.2019), in connection with the exposure in this matter.

14 (Emphasis added.)

15 34. On this news, Bank Hapoalim's ADRs fell \$0.97 per ADR over the  
16 trading day, or over 3%, to close at \$24.03 per ADR on March 18, 2020,  
17 damaging investors,

18 35. On April 30, 2020, the DOJ issued a press release entitled "Israel's  
19 Largest Bank, Bank Hapoalim, Admits to Conspiring with U.S. Taxpayers to  
20 Hide Assets and Income in Offshore Accounts: Bank Hapoalim (Switzerland)  
21 Pleads Guilty and Bank Hapoalim B.M. Enters into Deferred Prosecution  
22 Agreement for Criminal Misconduct; Agree to Pay Nearly \$875 Million[.]" The  
23 press release further described the agreement as follows:

24 . . . ***announced today the guilty plea of Bank Hapoalim***  
25 ***(Switzerland) Ltd.*** and filing of criminal charges against Bank  
26 Hapoalim B.M. for conspiring with U.S. taxpayers and others to hide  
27 more than \$7.6 billion in more than 5,500 secret Swiss and Israeli  
28 bank accounts and the income generated in these accounts from the  
Internal Revenue Service (the IRS). . . .

As part of today's resolutions, along with resolutions entered into  
with state and federal partners, Bank Hapoalim B.M. (BHBM),  
Israel's largest bank, and Bank Hapoalim (Switzerland) Ltd. (BHS),



1 its Swiss subsidiary, *agreed to pay approximately \$874.27 million* to  
2 the U.S. Treasury, the Federal Reserve, and the New York State  
3 Department of Financial Services. Today’s resolution is the second-  
4 largest recovery by the Department of Justice in connection with its  
5 investigations since 2008 into facilitation of offshore U.S. tax  
6 evasion by foreign banks.

7 \* \* \*

8 *Today’s resolutions include agreements with BHBM and BHS*  
9 *(collectively, the “Bank”) under which the Bank agreed to accept*  
10 *responsibility for its conduct by stipulating to the accuracy of*  
11 *extensive Statements of Facts.* BHBM further agreed to refrain from  
12 all future criminal conduct, implement remedial measures, and  
13 cooperate fully with further investigations into hidden bank accounts.  
14 Assuming BHBM’s continued compliance with its agreement, the  
15 Government has agreed to defer prosecution of BHBM for a period  
16 of three years, after which time the Government will seek to dismiss  
17 the charge against BHBM.

18 \* \* \*

19 *Both the penalty and fine amounts take into consideration that the*  
20 *Bank, after initially providing deficient cooperation through an*  
21 *inadequate internal investigation and the provision of incomplete*  
22 *and inaccurate information and data to the Government,* thereafter  
23 conducted a thorough internal investigation, provided client-  
24 identifying information, and cooperated in ongoing investigations  
25 and prosecutions.

26 (Emphasis added.)

27 36. Also on April 30, 2020, the DOJ issued a press release entitled “Bank  
28 Hapoalim Agrees to Pay More Than \$30 Million for Its Role in FIFA Money  
Laundering Conspiracy: Bank Hapoalim B.M. and Hapoalim (Switzerland) Ltd.  
Enter Into Three-Year Non-Prosecution Agreement[.]” The press stated the  
following concerning the Company’s illicit conduct:

1 Specifically, *BHBM and BHS [Hapoalim Switzerland] have*  
2 *admitted that they, through certain of their employees, conspired to*  
3 *launder over \$20 million* in bribes and kickbacks to soccer officials  
4 with Fédération Internationale de Football Association (FIFA) and  
other soccer federations.

5 “For nearly five years, Bank Hapoalim employees used the U.S.  
6 financial system to launder tens of millions of dollars in bribe  
7 payments to corrupt soccer officials in multiple countries,” said  
8 Assistant Attorney General Brian A. Benczkowski of the Justice  
Department’s Criminal Division.

9 \* \* \*

10 [S]aid Assistant Director in Charge William F. Sweeney of the FBI’s  
11 New York Field Office. “*Bank Hapoalim admits executives looked*  
12 *the other way, and allowed illicit activity to continue even when*  
13 *employees discovered the scheme and reported it. . .*”

14 \* \* \*

15 *Full Play allegedly executed the illegal payments from accounts at*  
16 *BHS and BHBM’s branch in Miami, Florida*, which were held in  
17 the names of Full Play subsidiaries and affiliates. On March 18,  
18 2020, Full Play was charged along with others in a superseding  
19 indictment in the Eastern District of New York with racketeering  
20 conspiracy, wire fraud, wire fraud conspiracy, and money laundering  
conspiracy.

21 *BHBM and BHS also admitted they conspired to launder money for*  
22 *Luis Bedoya*, who at various times served as the president of the  
23 Federación Colombiana de Futbol, a vice president of the  
24 Confederación Sudamericana de Fútbol (CONMEBOL), and a  
25 member of FIFA’s executive committee. *BHBM’s Miami branch*  
26 *and BHS allowed accounts controlled by Bedoya to be used to*  
27 *receive illicit bribe and kickback payments*. Bedoya pleaded guilty  
to racketeering conspiracy and wire fraud conspiracy on Nov. 12,  
28 2015, in the Eastern District of New York.

*Notwithstanding the repeated concerns raised by BHS compliance*

1 *personnel about certain payments made to soccer officials from the*  
2 *accounts associated with Full Play, BHS failed to take action.*  
3 *Instead, the banks' relationship managers continued executing*  
4 *illicit bribe and kickback payments on behalf of Full Play.*

5 (Emphasis added.)

6 37. On this news, Bank Hapoalim's ADRs fell \$1.09 per ADR, or 2%, to  
7 close at \$33.16 per ADR on April 30, 2020, further damaging investors.

8 38. As a result of Defendants' wrongful acts and omissions, and the  
9 precipitous decline in the market value of the Company's securities, Plaintiff and  
10 other Class members have suffered significant losses and damages.

#### 11 **PLAINTIFF'S CLASS ACTION ALLEGATIONS**

12 39. Plaintiff brings this action as a class action pursuant to Federal Rule  
13 of Civil Procedure 23(a) and (b)(3) on behalf of a Class, consisting of all those  
14 who purchased or otherwise acquired the publicly traded securities of Bank  
15 Hapoalim during the Class Period (the "Class") and were damaged upon the  
16 revelation of the alleged corrective disclosure. Excluded from the Class are  
17 Defendants herein, the officers and directors of the Company, at all relevant  
18 times, members of their immediate families and their legal representatives, heirs,  
19 successors or assigns and any entity in which Defendants have or had a  
20 controlling interest.

21 40. The members of the Class are so numerous that joinder of all  
22 members is impracticable. Throughout the Class Period, the Company's  
23 securities were actively traded on the OTC Pink Market. While the exact number  
24 of Class members is unknown to Plaintiff at this time and can be ascertained only  
25 through appropriate discovery, Plaintiff believes that there are hundreds or  
26 thousands of members in the proposed Class. Record owners and other members  
27 of the Class may be identified from records maintained by the Company or its  
28

1 transfer agent and may be notified of the pendency of this action by mail, using  
2 the form of notice similar to that customarily used in securities class actions.

3 41. Plaintiff's claims are typical of the claims of the members of the  
4 Class as all members of the Class are similarly affected by defendants' wrongful  
5 conduct in violation of federal law that is complained of herein.

6 42. Plaintiff will fairly and adequately protect the interests of the  
7 members of the Class and has retained counsel competent and experienced in  
8 class and securities litigation. Plaintiff has no interests antagonistic to or in  
9 conflict with those of the Class.

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

- 13 • whether the Exchange Act was violated by Defendants' acts as  
14 alleged herein;
- 15 • whether statements made by Defendants to the investing public  
16 during the Class Period misrepresented material facts about the  
17 financial condition and business of Bank Hapoalim;
- 18 • whether Defendants' public statements to the investing public during  
19 the Class Period omitted material facts necessary to make the  
20 statements made, in light of the circumstances under which they  
21 were made, not misleading;
- 22 • whether the Defendants caused Bank Hapoalim to issue false and  
23 misleading filings during the Class Period;
- 24 • whether Defendants acted knowingly or recklessly in issuing false  
25 filings;
- 26
- 27
- 28

- 1           • whether the prices of Bank Hapoalim securities during the Class  
2           Period were artificially inflated because of the Defendants' conduct  
3           complained of herein; and  
4           • whether the members of the Class have sustained damages and, if so,  
5           what is the proper measure of damages.

6           44. A class action is superior to all other available methods for the fair  
7           and efficient adjudication of this controversy since joinder of all members is  
8           impracticable. Furthermore, as the damages suffered by individual Class  
9           members may be relatively small, the expense and burden of individual litigation  
10          make it impossible for members of the Class to individually redress the wrongs  
11          done to them. There will be no difficulty in the management of this action as a  
12          class action.

13          45. Plaintiff will rely, in part, upon the presumption of reliance  
14          established by the fraud-on-the-market doctrine in that:

- 15           • Bank Hapoalim ADRs met the requirements for listing, and were  
16           listed and actively traded on OTC Pink, an efficient market;  
17           • As a public issuer, Bank Hapoalim filed periodic public reports;  
18           • Bank Hapoalim regularly communicated with public investors via  
19           established market communication mechanisms, including through  
20           the regular dissemination of press releases via major newswire  
21           services and through other wide-ranging public disclosures, such as  
22           communications with the financial press and other similar reporting  
23           services; and  
24           • Bank Hapoalim was followed by a number of securities analysts  
25           employed by major brokerage firms who wrote reports that were  
26           widely distributed and publicly available.  
27



- made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- engaged in acts, practices and a course of business that operated as a fraud or deceit upon plaintiff and others similarly situated in connection with their purchases of Bank Hapoalim securities during the Class Period.

52. Defendants acted with scienter in that they knew that the public documents and statements issued or disseminated in the name of Bank Hapoalim were materially false and misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated, or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the securities laws. These Defendants by virtue of their receipt of information reflecting the true facts of Bank Hapoalim, their control over, and/or receipt and/or modification of Bank Hapoalim's allegedly materially misleading statements, and/or their associations with the Company which made them privy to confidential proprietary information concerning Bank Hapoalim, participated in the fraudulent scheme alleged herein.

53. Individual Defendants, who were senior officers and/or directors of the Company, had actual knowledge of the material omissions and/or the falsity of the material statements set forth above, and intended to deceive Plaintiff and the other members of the Class, or, in the alternative, acted with reckless disregard for the truth when they failed to ascertain and disclose the true facts in the statements made by them or other Bank Hapoalim personnel to members of the investing public, including Plaintiff and the Class.

1 54. As a result of the foregoing, the market price of Bank Hapoalim  
2 securities was artificially inflated during the Class Period. In ignorance of the  
3 falsity of Defendants' statements, Plaintiff and the other members of the Class  
4 relied on the statements described above and/or the integrity of the market price  
5 of Bank Hapoalim securities during the Class Period in purchasing Bank  
6 Hapoalim securities at prices that were artificially inflated as a result of  
7 Defendants' false and misleading statements.

8 55. Had Plaintiff and the other members of the Class been aware that the  
9 market price of Bank Hapoalim securities had been artificially and falsely inflated  
10 by Defendants' misleading statements and by the material adverse information  
11 which Defendants did not disclose, they would not have purchased Bank  
12 Hapoalim securities at the artificially inflated prices that they did, or at all.

13 56. As a result of the wrongful conduct alleged herein, Plaintiff and  
14 other members of the Class have suffered damages in an amount to be established  
15 at trial.

16 57. By reason of the foregoing, Defendants have violated Section 10(b)  
17 of the 1934 Act and Rule 10b-5 promulgated thereunder and are liable to the  
18 plaintiff and the other members of the Class for substantial damages which they  
19 suffered in connection with their purchase of Bank Hapoalim securities during  
20 the Class Period.

21  
22 **COUNT II**

23 **Violations of Section 20(a) of the Exchange Act**

24 **Against the Individual Defendants**

25 58. Plaintiff repeats and realleges each and every allegation contained in  
26 the foregoing paragraphs as if fully set forth herein.

27 59. During the Class Period, Individual Defendants participated in the  
28 operation and management of Bank Hapoalim, and conducted and participated,



1 directly and indirectly, in the conduct of Bank Hapoalim business affairs.  
2 Because of his senior positions, they knew the adverse non-public information  
3 about Bank Hapoalim misstatement of revenue and profit and false financial  
4 statements.

5 60. As an officer and/or director of a publicly owned company, the  
6 Individual Defendants had a duty to disseminate accurate and truthful information  
7 with respect to Bank Hapoalim's financial condition and results of operations,  
8 and to correct promptly any public statements issued by the Company which had  
9 become materially false or misleading.

10 61. Because of their positions of control and authority as senior officers  
11 and/or directors, Individual Defendants were able to, and did, control the contents  
12 of the various reports, press releases and public filings which Bank Hapoalim  
13 disseminated in the marketplace during the Class Period concerning Bank  
14 Hapoalim's results of operations. Throughout the Class Period, the Individual  
15 Defendants exercised their power and authority to cause Bank Hapoalim to  
16 engage in the wrongful acts complained of herein. Individual Defendants  
17 therefore, were "controlling persons" of the Company within the meaning of  
18 Section 20(a) of the Exchange Act. In this capacity, they participated in the  
19 unlawful conduct alleged which artificially inflated the market price of Bank  
20 Hapoalim securities.

21 62. By reason of the above conduct, Individual Defendants are liable  
22 pursuant to Section 20(a) of the Exchange Act for the violations committed by  
23 the Company.  
24

25 **PRAYER FOR RELIEF**

26 **WHEREFORE**, Plaintiff, on behalf of himself and the Class, prays for  
27 judgment and relief as follows:  
28

1 (a) declaring this action to be a proper class action, designating plaintiff  
2 as Lead Plaintiff and certifying plaintiff as a class representative under Rule 23 of  
3 the Federal Rules of Civil Procedure and designating plaintiff's counsel as Lead  
4 Counsel;

5 (b) awarding damages in favor of plaintiff and the other Class members  
6 against all defendants, jointly and severally, together with interest thereon;

7 awarding plaintiff and the Class reasonable costs and expenses incurred in  
8 this action, including counsel fees and expert fees; and

9 (d) awarding plaintiff and other members of the Class such other and  
10 further relief as the Court may deem just and proper.

11 **JURY TRIAL DEMANDED**

12 Plaintiff hereby demands a trial by jury.

13  
14 **THE ROSEN LAW FIRM, P.A.**

15  
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28 *Counsel for Plaintiff*