

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

IN RE: SUNEDISON, INC. SECURITIES  
LITIGATION

Civil Action No. 1:16-md-2742-PKC

This Document Relates To:

*Horowitz et al. v. SunEdison, Inc. et al.*,  
Case No. 1:16-cv-07917-PKC

**NOTICE OF PENDENCY OF CLASS ACTION**

- To:** (1) all persons and entities who purchased or otherwise acquired shares of SunEdison, Inc. (“SunEdison”) common stock between September 2, 2015 and April 4, 2016, and were damaged thereby (the “Exchange Act Subclass”); and
- (2) all persons and entities who purchased or otherwise acquired shares of SunEdison preferred stock between August 18, 2015 and November 9, 2015, inclusive, pursuant or traceable to the registered public offering on or about August 18, 2015, and were damaged thereby (the “Securities Act Subclass,” and together with the Exchange Act Subclass, the “Class”).

*A federal court has authorized this Notice.*

*It is not junk mail, an advertisement, or a solicitation from a lawyer.*

**PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. IF YOU ARE  
A CLASS MEMBER, YOUR RIGHTS WILL BE AFFECTED BY A CLASS ACTION LAWSUIT  
PENDING IN THIS COURT. THIS NOTICE ADVISES YOU OF YOUR OPTIONS  
REGARDING THE CLASS ACTION.**

**PLEASE DO NOT CALL OR WRITE THE COURT. IF YOU HAVE  
ANY QUESTIONS AFTER READING THIS NOTICE, YOU SHOULD CONTACT THE  
ADMINISTRATOR OR CLASS COUNSEL, AS DISCUSSED FURTHER BELOW.**

This Notice is being sent pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Southern District of New York (the “Court”) to inform you of a class action lawsuit that is now pending in the Court under the above caption (the “Action”) against: (i) certain officers and directors of SunEdison (the “Individual Defendants”);<sup>1</sup> and (ii) underwriters of SunEdison’s August 18, 2015 offering of Series A Perpetual Convertible Preferred Stock (the “Underwriter Defendants,”<sup>2</sup> and collectively with the Individual Defendants, the “Defendants”), and that the Action has been certified by the Court to proceed as a class action consisting of two subclasses.

1. The “Class” certified by the Court consists of two subclasses:
- (1) all persons and entities who purchased or otherwise acquired shares of SunEdison common stock between September 2, 2015 and April 4, 2016, and were damaged thereby; and
- (2) all persons and entities who purchased or otherwise acquired shares of SunEdison preferred stock between August 18, 2015 and November 9, 2015, inclusive, pursuant or traceable to the registered public offering on or about August 18, 2015, and were damaged thereby.

<sup>1</sup> The “Individual Defendants” are former SunEdison Chief Executive Officer Ahmad Chatila, former SunEdison Chief Financial Officer Brian Wuebbels, and former SunEdison directors Antonio Alvarez, Clayton Daley, Randy Zwirn, James Williams, Georganne Proctor, Steven Tesoriere, Peter Blackmore, and Emmanuel Hernandez.

<sup>2</sup> The “Underwriter Defendants” are Goldman Sachs & Co. LLC (f/k/a Goldman, Sachs & Co.), Merrill Lynch, Pierce, Fenner & Smith Inc., Deutsche Bank Securities Inc., Morgan Stanley & Co. LLC, J.P. Morgan Securities LLC, Macquarie Capital (USA), Inc., and MCS Capital Markets LLC.

Excluded from the Class by definition are:

(i) Defendants; (ii) members of the immediate families of Defendants; (iii) any directors and officers of Defendants during the Class Period and members of their immediate families; (iv) the subsidiaries, parents, and affiliates of SunEdison; (v) any firm, trust, corporation, or other entity in which any Defendant has or had a controlling interest; and (vi) the legal representatives, heirs, successors and assigns of any such excluded party.<sup>3</sup>

2. This Notice is directed to you because you may be a member of the Class (“Class Member”). If you are a Class Member, your rights will be affected by this Action. If you are uncertain whether you are a Class Member, contact Class Counsel listed in paragraph 18 below, or your own attorney.
3. This Notice is not an admission by Defendants or an expression of any opinion of the Court concerning the merits of the Action, or a finding by the Court that the claims asserted by the Class Representatives (as defined in paragraph 10 below) are valid. This Notice is intended solely to advise you of the pendency of the Action and of your rights in connection with it. There is no judgment, settlement, or monetary recovery at this time. Defendants have denied the Class Representatives’ claims and contend that they are not liable for the alleged harm.
4. The Class definition is subject to change by Court order, pursuant to Rule 23 of the Federal Rules of Civil Procedure.

### **OVERVIEW AND STATUS OF THIS ACTION**

5. This case arises out of allegations that Defendants violated Section 10(b) of the Securities Exchange Act of 1934 and Sections 11, 12, and 15 of the Securities Act of 1933. Among other things, the Action alleges that SunEdison conducted an offering of preferred stock on August 18, 2015 (the “Preferred Offering”), and that in the offering documents for the Preferred Offering, Defendants omitted the material facts of (i) a second-lien loan that SunEdison had recently taken from Goldman Sachs and the burdensome terms of that loan; (ii) a margin call (the “Margin Call”) on a margin loan (the “Margin Loan”); and (iii) that Defendants materially misrepresented the Margin Loan as non-recourse to SunEdison, when it was in fact recourse to SunEdison, and that these alleged omissions were not corrected until November 9, 2015 (August 18, 2015 through November 9, 2015, inclusive, is the “Securities Act Class Period”).
6. The Action further alleges that during a September 2, 2015 interview, former SunEdison CEO Ahmad Chatila falsely stated that SunEdison would be “generating cash for a living” by the first quarter of 2016, when he knew or was materially reckless in not knowing that SunEdison’s internal forecasts did not project that SunEdison would be cash flow positive by the first quarter of 2016, and that this alleged misleading statement was not fully corrected until April 4, 2016 (between September 2, 2015 and April 4, 2016 is the “Exchange Act Class Period”).
7. On March 24, 2016, the Court issued an Order appointing the Municipal Employees’ Retirement System of Michigan (“MERS”) as “Lead Plaintiff” pursuant to the Private Securities Litigation Reform Act of 1995. In the same Order, the Court approved Lead Plaintiff’s selection of Bernstein Litowitz Berger & Grossmann LLP (“BLB&G”) as Lead Counsel, and consolidated all related actions.
8. The operative complaint in the Action, the Second Amended Consolidated Securities Class Action Complaint (the “Complaint”), was filed on March 21, 2017.

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<sup>3</sup> For purposes of clarification, any investment company or pooled investment fund, including, but not limited to, mutual fund families, exchange-traded funds, fund of funds and hedge funds, in which any Underwriter Defendant has or may have a direct or indirect interest, or as to which its affiliates may act as an investment advisor but of which any Underwriter Defendant or any of its respective affiliates is not a majority owner or does not hold a majority beneficial interest (“Investment Vehicles”) shall not be deemed an excluded person or entity; provided, however, that the definition of Investment Vehicles shall not bring into the Class any of the Underwriter Defendants themselves.

9. On June 9, 2017, Defendants moved to dismiss the Complaint. On March 6, 2018, the Court issued an Order denying in part and granting in part Defendants' motions to dismiss and sustaining Lead Plaintiff's claims relating to the allegations described in paragraphs 5 and 6 above.
10. On June 13, 2018, Lead Plaintiff filed a motion for class certification. Following briefing on the motion, on January 7, 2019, the Court issued an Opinion and Order granting the class certification motion with a modified class as described herein, certifying the Class as defined above, appointing MERS as the Class Representative for the Exchange Act Subclass and Named Plaintiff the Arkansas Teacher Retirement System ("ATRS") as Class Representative for the Securities Act Subclass (MERS and ATRS, together, the "Class Representatives"), and appointing BLB&G as Class Counsel.

### **YOUR RIGHTS AS A CLASS MEMBER**

11. A class action is a type of lawsuit in which one or several individuals or entities prosecute claims on behalf of all members of a group of similarly situated persons and entities (*i.e.*, the class) to obtain monetary or other relief for the benefit of the entire group. Class actions avoid the necessity of each member of a class having to file his, her, or its own separate lawsuit to obtain relief. Class actions are used to decide legal and factual issues that are common to all members of a class.
12. If you purchased or otherwise acquired shares of SunEdison common stock during the period between September 2, 2015 and April 4, 2016, or shares of SunEdison preferred stock pursuant or traceable to the Preferred Offering during the period between August 18, 2015 and November 9, 2015, inclusive, and were damaged thereby, and you are not excluded from the Class by definition (*see* paragraph 1, above), you are a member of the Class. If you are a member of the Class, you have the right to decide whether to remain a member of the Class.
13. If you wish to be excluded from the entire Class or just one of the subclasses, you must request exclusion in accordance with the procedure set forth in paragraphs 15 through 17 below. ***If you want to remain a member of the Class, you do not need to do anything at this time other than to retain your documentation reflecting your transactions and holdings in SunEdison common stock or preferred stock, as discussed in paragraph 14 below.*** If you do nothing, and you are a member of the Class, you will stay in the Class. Your decision is important for the following reasons:
  - a. **If you remain a member of the Class**, you will be bound by all past, present, and future orders and judgments in the Action, whether favorable or unfavorable. If any money is awarded to the Class, either through a settlement with Defendants or a judgment of the Court after a trial, you may be eligible to receive a share of that award. However, if you remain a member of the Class, you may not pursue a lawsuit on your own behalf with regard to any of the issues in this Action. Pursuant to Rule 23(e)(4) of the Federal Rules of Civil Procedure, it is within the Court's discretion whether to allow a second opportunity to request exclusion from the Class or one of the subclasses if there is a settlement or judgment in the Action after a trial. Please note that if you remain a member of the Class, you will not be personally responsible for Class Counsel's attorneys' fees or costs. Class Counsel has agreed to represent the Class on a contingent fee basis, which means that they will be awarded fees and costs to be approved by the Court only if they succeed in obtaining a recovery from one or more Defendants. Any attorneys' fees for Class Counsel will be awarded by the Court from the settlement or judgment, if any, obtained on behalf of the Class. As a member of the Class, you will be represented by Class Counsel. Alternatively, you may remain a member of the Class and elect to be represented by counsel of your own choosing. If you do retain separate counsel, you will be responsible for your attorney's fees and expenses and your attorney must enter an appearance on your behalf by filing a Notice of Appearance with the Court and mailing it to Class Counsel at the address set forth in paragraph 18 below **on or before June 17, 2019**.
  - b. **If you choose to be excluded from the Class or one of the subclasses**, you will not be bound by any past, present, or future orders and judgments in this Action as pertains to the Class or the subclass

from which you choose to be excluded, nor will you be eligible to share in any recovery that might be obtained in this Action for the benefit of the Class or subclass from which you choose to be excluded. You will retain any right you have to individually pursue legal rights, if any, that you may have against any Defendants with respect to the claims asserted in the Action in accordance with your request for exclusion. ***Please note, if you decide to exclude yourself from the Class or one of the subclasses, you may be time-barred from asserting the claims covered by the Action by a statute of repose and your claims could be dismissed.*** Please refer to paragraphs 15 through 17 below if you would like to be excluded from the Class or a subclass.

14. Members of the Class will be eligible to participate in any recovery that might be obtained in the Action. While this Notice is not intended to suggest any likelihood that members of the Class will recover any money, should there be a recovery, Class Members will be required to submit a claim form demonstrating their membership in the Class or a subclass and documenting their sales, purchases, and/or holdings of SunEdison common or preferred stock, and their resulting damages. ***For this reason, please be sure to keep all records of your transactions and holdings in SunEdison common stock and preferred stock. DO NOT mail them to Class Counsel or the Administrator at this time.*** No money or benefits are available now and there is no guarantee that money or benefits will be obtained. If they are, Class Members will be notified regarding how to obtain a portion.

#### **HOW TO BE EXCLUDED FROM THE CLASS OR ONE OF THE SUBCLASSES**

15. If you wish to be excluded from the Class or one of the subclasses, you must specifically request exclusion in accordance with the following procedures. To exclude yourself from the Class or a subclass, you must send a letter by first-class mail stating that you “request exclusion from Exchange Act Subclass, the Securities Act Subclass, or the entire Class in *In re SunEdison, Inc. Securities Litigation*, No. 1:16-md-2742 (PKC),” as applicable. Your request must: (i) state the name, address, and telephone number of the person or entity requesting exclusion, and, in the case of entities, the name and telephone number of the appropriate contact person and specify if you request exclusion from the Exchange Act Subclass, the Securities Act Subclass, or the entire Class (*i.e.*, both subclasses); (ii) state the number of shares of SunEdison preferred stock that the person or entity requesting exclusion purchased/acquired and/or sold during the Securities Act Class Period (*i.e.*, between August 18, 2015 and November 9, 2015, inclusive), as well as the dates, number of shares, and prices of each such purchase/acquisition and sale; (iii) state the number of shares of SunEdison common stock that the person or entity requesting exclusion (A) owned as of the close of trading on September 2, 2015 and (B) purchased/acquired and/or sold during the Exchange Act Class Period (*i.e.*, between September 2, 2015 and April 4, 2016), as well as the dates, number of shares, and prices of each such purchase/acquisition and sale; and (iv) be signed by the person or entity requesting exclusion or an authorized representative, accompanied by proof of authorization. You must mail your exclusion request, ***postmarked by no later than June 17, 2019***, to:

In re SunEdison, Inc. Securities Litigation  
c/o Analytics Consulting  
P.O. Box 2007  
Chanhassen, MN 55317-2007

You cannot exclude yourself from the Class by telephone or by e-mail, and a request for exclusion shall not be effective unless it contains all the information called for by this paragraph and is postmarked by the date stated above, or is otherwise accepted by the Court. If you do not specify whether you request exclusion from the entire Class or just one of the subclasses, you will be excluded from the entire Class.

16. If your request for exclusion complies with the requirements set forth above, the Court will exclude you from the Class, you will not be bound by any orders or judgments in this Action, and you will not be eligible to share in any recovery that might be obtained in this Action.



17. Do not request exclusion from the Class or a subclass if you wish to participate in this Action as a member of the Class or such subclass.

**CLASS COUNSEL**

18. As a member of the Class, you will be represented by Class Counsel, who are:

Salvatore J. Graziano  
Katherine M. Sinderson  
Adam D. Hollander  
BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP  
1251 Avenue of the Americas  
New York, NY 10020  
www.blbglaw.com  
1-800-380-8496

19. If you want to be represented by your own lawyer, you may hire one at your own expense. If you do retain your own lawyer, such counsel must enter an appearance on your behalf by filing a Notice of Appearance with the Clerk of the Court at the United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007-1312, **on or before June 17, 2019**. Your Notice of Appearance must also be mailed to representative Class Counsel: Adam Hollander, Bernstein Litowitz Berger & Grossmann LLP, 1251 Avenue of the Americas, 44th Floor, New York, NY 10020, **on or before June 17, 2019**.
20. As noted above, unless you elect to retain your own personal lawyer, if you remain in the Class, you will not have any direct obligations to pay the costs of the litigation. If there is a recovery by the Class, all costs and expenses of the Action, including Class Counsel's attorneys' fees, will be paid from that recovery in an amount approved by the Court.

**PLEASE KEEP YOUR ADDRESS CURRENT**

21. In order to make sure that you receive any further notices in this Action, you are requested to mail notice of any changes in your address to:

In re SunEdison, Inc. Securities Litigation  
c/o Analytics Consulting  
P.O. Box 2007  
Chanhassen, MN 55317-2007

If this Notice was forwarded to you by the postal service, or if it was otherwise sent to you at an address that is not current, you should immediately contact the Administrator, Analytics Consulting, at the address in paragraph 21 above, by calling the Administrator toll free at 1-866-887-2962, or by emailing the Administrator at [info@SunEdisonSecuritiesLitigation.com](mailto:info@SunEdisonSecuritiesLitigation.com), and provide them with your correct address. If the Administrator does not have your correct address, you may not receive any future notices that may be disseminated in this Action.

**WHERE YOU CAN FIND ADDITIONAL INFORMATION**

23. This Notice provides only a summary of the lawsuit and the claims asserted by the Class Representatives. For more detailed information regarding the Action, including a copy of the Complaint, you may contact Class Counsel or visit [www.SunEdisonSecuritiesLitigation.com](http://www.SunEdisonSecuritiesLitigation.com).

**PLEASE DO NOT CALL OR WRITE THE COURT.**

## **NOTICE TO SECURITIES BROKERS AND OTHER NOMINEES**

24. If, during the period between August 18, 2015 and November 9, 2015, inclusive, you purchased or otherwise acquired SunEdison preferred stock pursuant or traceable to SunEdison's registered public offering on or about August 18, 2015 for the beneficial interest of persons or organizations other than yourself; or during the period between September 2, 2015 and April 4, 2016, you purchased or otherwise acquired shares of SunEdison common stock for the beneficial interest of persons or organizations other than yourself, you must either: (i) within ten (10) business days of receipt of this Notice, request from the Administrator sufficient copies of the Notice to forward to all such beneficial owners and within ten (10) business days of receipt of those Notices forward them to all such beneficial owners; or (ii) within ten (10) business days of receipt of this Notice, provide a list of the names, mailing addresses, and, if available, email addresses of all such beneficial owners to the Administrator at In re SunEdison, Inc. Securities Litigation, c/o Analytics Consulting, P.O. Box 2007, Chanhassen, MN 55317-2007. If you choose the first option, you must send a statement to the Administrator confirming that the mailing was made, and **you must retain your mailing records for use in connection with any further notices that may be provided in the Action.** If you choose the second option, the Administrator will send a copy of the Notice to the beneficial owners. Upon full and timely compliance with these directions, such nominees may seek reimbursement of their reasonable expenses actually incurred by providing the Administrator with proper documentation supporting the expenses for which reimbursement is sought. Copies of this Notice may also be obtained from the website maintained by the Administrator, [www.SunEdisonSecuritiesLitigation.com](http://www.SunEdisonSecuritiesLitigation.com), by calling the Administrator toll free at 1-866-887-2962, or by emailing the Administrator at [info@SunEdisonSecuritiesLitigation.com](mailto:info@SunEdisonSecuritiesLitigation.com).

Dated: April 18, 2019

BY ORDER OF THE COURT:  
United States District Court for the  
Southern District of New York