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⁷⁴ See *Amgen Inc. v. Com. Sec. Pools & Trust Funds*, 133 S. Ct. 1184, 1201 (2013). At oral argument, Justice Kagan articulated the relevance of congressional acquiescence: in order to reverse a case, there must be something "fundamentally different" today than when the case was decided, and that is "especially so . . . where Congress has had every opportunity, and has declined every opportunity, to change *Basic*." Transcript of Oral Argument, *supra* note 62, at 5.

⁷⁵ Pub. L. No. 104-67, 109 Stat. 737 (codified as amended in scattered sections of 15 U.S.C.).

⁷⁶ See Michael A. Perino, *Did the Private Securities Litigation Reform Act Work?*, 3003 U. ILL. L. REV. 913, 914. The PSLRA imposed heightened pleading requirements, limits on damages and attorney's fees, restrictions on lead plaintiff selection, sanctions for frivolous litigation, and stays of discovery pending motions to dismiss. See *id.* at 923-25, 939.

⁷⁷ Pub. L. No. 105-353, 112 Stat. 3217 (codified as amended in scattered sections of 15 U.S.C.).

⁷⁸ A.C. Pritchard, *Securities Law in the Roberts Court: Agenda or Indifference?*, 37 J. CORP. L. 105, 109-10 (2011).

⁷⁹ Indeed, the PSLRA explicitly provides that "[n]othing in this Act . . . shall be deemed to create or ratify any implied right of action." *Halliburton II*, 134 S. Ct. at 2426 (Thomas, J., concurring in the judgment) (alteration and omission in original) (quoting § 102, 109 Stat. at 762).

⁸⁰ Cf. *Stoneridge Inv. Partners, LLC v. Scientific-Ail., Inc.*, 552 U.S. 148, 165 (2008) (noting that Congress "ratified" the section 10(b) cause of action in enacting the PSLRA); *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 144 (2000) (noting that Congress "ratified" the FDA's position on tobacco regulation by enacting legislation against the backdrop of that position).

⁸¹ Donald C. Langevoort, *Judgment Day for Fraud-on-the-Market: Reflections on Amgen and the Second Coming of Halliburton*, 56 ARIZ. L. REV. (forthcoming 2014) (manuscript at 7), <http://ssrn.com/abstract=2475036> [<http://perma.cc/9zMS-FFDT>].

⁸² See *Halliburton II*, 134 S. Ct. at 2413.

⁸³ Even Justice Scalia conceded that "the PSLRA assumes *Basic*" and that key statutory provisions would be rendered "useless" if *Basic* were overruled. Transcript of Oral Argument, *supra* note 62, at 46. With respect to price impact, Justices Scalia, Kennedy, and Kagan sought to ensure the Court's holding would preserve the effectiveness of the PSLRA. See *id.* at 47, 47-50.

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