April 12, 2004

Via Electronic Filing

Mr. Jonathan G. Katz
Secretary
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549-0609

Re: File No. S7-06-04—Proposed Rule: Confirmation and Point of Sale Disclosure Requirements

Dear Mr. Katz:

Charles Schwab & Co., Inc. ("Schwab")[1] appreciates the opportunity to comment on the Securities and Exchange Commission's ("Commission" or "SEC") recent proposed rules governing mutual fund trade confirmation and point of sale disclosures (the "Proposed Rules").[2] The Proposed Rules would require brokers, dealers and municipal securities dealers (referred to collectively herein as "broker-dealers") to provide their customers at the point of sale and in trade confirmations with information regarding the costs and conflicts of interest that arise from the distribution of mutual fund shares, unit investment trust interests (including insurance securities), and municipal fund securities ("Covered Securities").[3]

The Proposed Rules seek to help investors make more informed investment decisions by providing information about distribution-related costs and the conflicts of interest that distribution arrangements between mutual funds and broker-dealers may create. Schwab strongly supports the goals of the Proposed Rules. Every investor should be informed and have ready access to information regarding fees and conflicts of interest

[1] Schwab is a wholly owned subsidiary of The Charles Schwab Corporation (NYSE: SCH) ("Schwab Corporation"). Schwab, member SIPC/NYSE, is registered with the Commission as both a broker-dealer and as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act"). Schwab Corporation offers to customers a wide range of mutual fund investments and information through its family of proprietary funds and its Mutual Fund Marketplace® (the "Marketplace"). The Marketplace allows brokerage customers to purchase and redeem shares of approximately 4,500 third party mutual funds. The Schwab Corporation, through its operating subsidiaries, serves approximately 8 million active accounts and is one of the nation's largest financial services firms.

[2] *See* SEC Release Nos. 33-8358; 34-49148; IC-26341 (Jan. 29, 2004) (the "Proposing Release").

[3] The Proposed Rules would also require broker-dealers to include in trade confirmations additional information about the call features of debt securities and preferred stock. In addition, the Proposed Rules would require mutual funds to include in fund prospectuses improved disclosure regarding sales loads and revenue sharing arrangements.

that can potentially impact the integrity of the investment advice and quality of investment services the investor receives from broker-dealers. To achieve these ends, however, the required disclosures must be meaningful to investors, provided in a manner that investors can readily understand, and delivered to investors when most useful and most relevant. While Schwab applauds the Commission's efforts in proposing disclosure requirements that seek to better inform investors about distribution-related costs and conflicts of interest, we believe the disclosures required under the Proposed Rules may not effectively attain that end. In fact, Schwab believes the content of the required disclosures, and in particular the manner in which that content is disclosed, may instead confuse and mislead investors as to the true costs associated with their mutual fund investment and full extent and potential effects of broker-dealer conflicts of interest. Most importantly, the Proposed Rules fail to provide enough information about revenue-sharing, differential compensation and other conflicts of interest for investors to evaluate appropriately how these arrangements may impact their investment decisions.

Schwab is also deeply concerned about the substantial costs broker-dealers will incur under the Proposed Rules. The Commission severely underestimates the one-time implementation and ongoing annual costs the Proposed Rules would impose on broker-dealers—costs that will ultimately be borne by individual investors. As discussed in greater detail below, the Proposed Rules would not only necessitate extensive changes to the existing trade confirmation and other, currently non-critical operating systems, but would also require the development of entirely new trade processes and systems to comply with the point of sale disclosure requirements, which must be developed for each specific order entry system.

Schwab believes the shortcomings of the Proposed Rules stem from the Commission's attempt to construct too quickly a comprehensive disclosure model for distribution-related costs and conflicts of interest. Simply put, without substantial input from broker-dealers and the industry in general, as well as individual investors, Schwab believes that it is difficult to identify which distribution-related information investors would find most meaningful, and, more importantly, to determine the manner in which that information is best made available to investors. These challenges are no less daunting given the complex nature of most distribution-related arrangements. Information that may seem readily understandable to the Commission and the industry, may be difficult for investors to comprehend or, worse, mislead investors; and, consequently, this information would be of little use or value to investors. Moreover, broker-dealers may not have access to some of the information that certain disclosures would require, or it may be impracticable, or even impossible, to implement the functionality necessary to make certain of the required disclosures. The Proposed Rules raise too many questions and technological challenges that, unless resolved appropriately and with careful forethought, will ultimately undermine the effectiveness of these important disclosures. With this in mind, Schwab believes it is critical that the Commission and the industry work in unison to develop an alternative comprehensive

approach to mutual fund fees and conflict of interest disclosures that can both benefit investors and be practicably implemented by the industry.[4]

In Schwab's view, it is essential that investors also be involved in the process of developing this alternative disclosure model. Considerable care should be given to ensure that the end result will be of use and value to investors, and we question whether this can be fully achieved without receiving input from investors on the proposed disclosure model. Investor participation is essential to enable the Commission and the industry to construct this comprehensive disclosure model the right way the first time. While Schwab believes there are equally effective but less costly alternatives to the Proposed Rules, these costs will nevertheless remain substantial. Trade confirmation, point of sale and other broker-dealer systems are complex, and even modest changes often cannot be made without incurring significant expense. To implement a disclosure model only to find that it inadequately serves the needs of investors and requires substantial modification, would impose unnecessary costs on broker-dealers and, ultimately, investors.[5]

While Schwab urges the Commission to seek alternatives to the comprehensive disclosures required under the Proposed Rules, we nevertheless believe there remains an immediate need to address disclosure of broker-dealer practices that create conflicts of interest. Specifically, Schwab believes the Commission and the industry cannot delay in requiring disclosure of conflicts of interests that result from revenue sharing payments, differential compensation practices, and any other arrangements or practices that may inappropriately influence broker-dealers or their associated persons to recommend a Covered Security to investors. These conflicts of interest create the greatest risk to the credibility and integrity of the broker-dealer and mutual fund industries. Investors must know whether a broker-dealer receives payments from issuers or their affiliates to promote their mutual funds or other investment products over others (e.g., payments by a mutual fund to appear on a broker-dealer's "preferred" mutual fund list). Investors must also know whether an associated person is recommending a Covered Security to the investor because that security is most appropriate based on the investor's needs, or

[4] We believe this effort could extend beyond disclosure of distribution-related costs and conflicts of interest to disclosure models that evaluate the totality of mutual fund and broker-dealer disclosures—a top to bottom analysis of the current disclosure scheme to evaluate whether investors are receiving the right kinds of information, and whether that information is being delivered to investors in the most efficient and effective ways.

[5] Schwab understands that the Commission is soliciting comments on the Proposed Rules from individual investors, and we appreciate the Commission's efforts in this regard. However, we believe more active and targeted participation is necessary. Extensive focus groups and surveys should be sponsored by the Commission and the industry during which investors can be provided with a variety of alternatives that would allow them to compare and contrast different approaches to disclosure of distribution-related costs and conflicts of interest. In this way, the Commission can best ensure that, in the end, investors receive the information that *investors* believe is of most use and value.

because the associated person receives greater compensation for recommending that security.[6] To that end, Schwab supports the following:

- Point of sale disclosure of sales loads, sales fees, revenue sharing arrangements, and differential compensation, provided the Commission adopts exceptions from these disclosure requirements for unsolicited transactions and institutional investors.

- Point of sale disclosure of all types of differential compensation, not just differential compensation related to proprietary mutual funds and Class B mutual fund shares.

- Additional narrative disclosure at point of sale regarding revenue sharing and differential compensation that provides a general description of the nature of those arrangements, so that investors can better evaluate the impact a potential or actual conflict of interest may have on his or her investment decision.

- A revised definition of "revenue sharing" under the Proposed Rules to include payments received by a broker-dealer from issuers of Covered Securities. In Schwab's view, payments from issuers for distribution-related services can create as much of an incentive to promote Covered Securities as similar payments received from affiliates. The definition of "revenue sharing" would then require broker-dealers to disclose asset-based sales and services fees received by issuers in the same manner as they disclose other revenue sharing payments.

- A requirement for broker-dealers to maintain a website that includes more detailed narrative disclosure about business practices that give rise to potential conflicts of interest, including revenue sharing arrangements and associated person compensation practices (referred to generally herein as a "business practices website"). As discussed below, these arrangements and practices are often complex and point of sale disclosure may not by itself provide sufficient context for investors to fully evaluate potential conflicts of interest. The business practices website would ensure that all investors have ready access to this important information.

- Narrative disclosure on trade confirmations that refer investors to the business practices website for information about potential conflicts of interest. Similar disclosure could also appear on account statements and account applications.

For the reasons discussed below, Schwab does not at this time support the following requirements under the Proposed Rules:

[6] In fact, Schwab believes that conflict of interest disclosure requirements are too essential for investors to apply only to broker-dealers. The same point of sale disclosure requirements should apply to any intermediary through which an investor purchases mutual funds.

- Disclosure of sales fees, revenue sharing arrangements, and differential compensation practices on trade confirmations. We believe these disclosures have limited, if any, value to investors once the transaction is complete and consequently are not justified given the substantial costs associated with making these disclosures.
- Disclosure of portfolio brokerage commissions on the trade confirmation or at point of sale. Given current and proposed regulations that would effectively eliminate directed brokerage, we believe disclosure of portfolio brokerage commissions would be irrelevant, or at least potentially misleading.
- Disclosure of comparison ranges. This requirement would be both difficult and costly to implement, and may ultimately mislead rather than inform investors about mutual fund costs and the impact of potential conflicts of interest.
- Dollar amount disclosure of revenue sharing payments or portfolio brokerage commissions at point of sale, on trade confirmations, or on the broker-dealer's business practices website. Schwab believes the manner in which the Commission requires dollar amount disclosure under the Proposed Rules may potentially mislead investors and could detract from other more important disclosures that describe (i) the existence and nature of these potential conflicts of interest, and (ii) the ways in which broker-dealers seek to limit the impact of those conflicts on investors.

We believe the approach recommended by Schwab above provides a less costly alternative to the Proposed Rules while achieving the immediate goal of disclosing distribution-related conflicts of interest. Schwab's recommended approach essentially retains the most important aspects of the Proposed Rules' point of sale disclosure requirements. But Schwab's approach also enhances the point of sale disclosures, providing investors with additional and more robust information about conflicts of interest. These disclosures would not only be delivered at point of sale, but also through the broker-dealer's business practices website, which would be available at any time for all investors to review and evaluate. Most importantly, Schwab's recommended approach would allow the Commission and the industry additional time to construct a more comprehensive disclosure model that integrates, to the extent necessary, information about distribution-related costs—a practicable model that meets the needs of investors without imposing the substantial costs of the Proposed Rules.

I. The Commission Should Require Broker-Dealers to Disclose Information About Revenue Sharing, Differential Compensation and Other Potential Conflicts of Interest at Point of Sale

Schwab supports narrative point of sale disclosure of arrangements between broker-dealers and mutual funds and their affiliates that create potential conflicts of interest between the broker-dealer and its customers. Schwab believes that Proposed Rule 15c2-3 generally achieves this goal. In Schwab's view, however, the Commission should revise Proposed Rule 15c2-3 to require more complete disclosure of differential

compensation. The Commission should also provide additional exceptions from the point of sale disclosure requirements for unsolicited transactions and for institutional investors. In addition, the Commission should require point of sale disclosure that refers investors to a broker-dealer's business practices website, which would include more detailed disclosure about revenue sharing, differential compensation, and other arrangements and practices that create potential conflicts of interest.

Disclosure of Differential Compensation at Point of Sale. Schwab agrees that investors have an interest in knowing whether an associated person receives greater cash compensation when recommending one covered security over another. Information about differential compensation is highly material to an investor's assessment of an associated person's recommendation. Investors will likely be more skeptical of recommendations to purchase a specific Covered Security if the investor is aware that an associated person receives greater compensation as a result of that recommendation than from a recommendation of a comparable Covered Security. In fact, we believe differential compensation generally presents a more significant potential conflict of interest than revenue sharing and other payments. Differential compensation differs from revenue sharing and other payments that create conflicts of interest because it provides a financial incentive for associated persons—the individuals who interact directly with investors—to recommend Covered Securities that may not be in an investor's best interests. For these reasons, Schwab strongly supports disclosure of differential compensation at point of sale.[7]

Under Proposed Rule 15c2-3(a)(2)(iii), however, the Commission would only require disclosure of differential compensation associated with the sale of Class B shares and proprietary funds. Schwab believes this is too limiting and fails to cover all forms of differential compensation. All types of differential compensation create the risk that associated persons will recommend a particular covered security to investors solely because they received greater compensation in connection with the sale of that security. Consequently, Schwab believes the Commission should revise Proposed Rules 15c2-3(a)(2)(iii) to require narrative disclosure of all types of differential compensation practices related to a Covered Security purchased by the investor. To that end, Schwab recommends that "differential compensation" under the Proposed Rules be defined as "any cash or non-cash compensation received by an associated person in connection with the recommendation of a Covered Security that exceeds the cash or non-cash compensation the associated person receives in connection with the recommendation of a comparable or competing Covered Security."[8] The Commission should further require broker-dealers to describe the nature of the differential compensation (i.e., whether it

[7] In fact, Schwab believes the Commission should extend this requirement beyond Covered Securities and require similar disclosure for solicited transactions of all other types of investment products and services. We made a similar recommendation to the NASD in response to the amendments to Rule 2830 proposed in Notice to Members 03-54 (September 2003). *See* Letter to Barbara Z. Sweeney, NASD, from Jeff Lyons, Executive Vice President, Charles Schwab & Co., Inc., October 17, 2003.

[8] "Cash compensation" and "non-cash compensation" should have the same definitions as set forth in NASD Rule 2830. In addition, the Commission should provide exceptions for receipt of non-cash compensation consistent with those provided by the NASD under Rule 2830(l)(5).

relates to sales of proprietary Covered Securities, or sales of a specific class of share or a particular non-proprietary Covered Security). Specific disclosure as to type of compensation will allow investors to make more meaningful investment decisions. In addition, as discussed in greater detail below, we believe differential compensation disclosure at point of sale should be supplemented with additional web-based disclosure.

Disclosure of Revenue Sharing Payments at Point of Sale. Schwab supports disclosure of revenue sharing as required under the Proposed Rules. However, as with differential compensation, Schwab believes the Proposed Rules should be enhanced to provide additional point of sale disclosure about revenue sharing payments a broker-dealer receives to recommend or otherwise promote a particular Covered Security to investors. Mutual funds or their affiliates may pay a broker-dealer to place a fund on a "preferred" or "recommended" list. Alternatively, broker-dealers may receive payments to provide greater transparency or "shelf space" for one mutual fund over other funds the broker-dealer makes available. We believe these types of arrangements create significantly greater conflicts of interest than the potential conflicts that other forms of revenue sharing payments may create (e.g., payments for shareholder services). Yet under Proposed Rule 15c2-3(a)(2)(i), a broker-dealer would not have to disclose the nature of these types of payments that, in Schwab's view, create an actual and more substantial conflict of interest; rather, it would only have to disclose generally that it receives revenue sharing from a fund complex through a "yes" or "no" response on Schedule 15D. Schwab believes that, in addition to the general disclosure under Proposed Rule 15c2-3(a)(2)(i), a broker-dealer should be required to disclose whether it receives payments from an issuer or its affiliates to recommend one Covered Security over a comparable or competing Covered Security, or to provide greater "shelf space" to that Covered Security than other comparable or competing Covered Securities.[9] Lacking this additional disclosure, investors will not have sufficient information to evaluate fully the degree of any potential or actual conflict of interest and, consequently, to make informed investment decisions. In addition, as discussed in greater detail below, we believe disclosure of revenue sharing arrangements at point of sale should be supplemented with additional web-based disclosure.

Disclosure of Sales Loads and Sales Fees at Point of Sale. Schwab supports point of sale disclosure of the amount of any sales load an investor would incur at the time the investor purchases a Covered Security and the amount of any dealer concession the broker-dealer would earn in connection with that transaction. In Schwab's view, a dealer concession received in connection with the sale of a Covered Security could potentially influence broker-dealers to promote or recommend that Covered Security over comparable or competing Covered Securities for which it receives no (or a lower) dealer

[9] For example, a broker-dealer that receives revenue sharing payments for placing a mutual fund on its "preferred" list would disclose that it receives revenue sharing payments from the fund and/or its affiliates *and* that these payments are received (in whole or in part) to include the issuer's products on the broker-dealer's "preferred" mutual fund list. As a result of requiring these additional disclosures, the Commission will need to modify the proposed format of Schedule 15D. While the disclosures may be slightly less uniform from broker-dealer to broker-dealer, we believe the added benefit of this additional disclosure at point of sale outweigh any advantage that may stem from a standardized format.

concession. The dealer concession creates a similar conflict of interest as those created by differential compensation practices and revenue sharing payments. An investor cannot make a fully informed investment decision unless he or she is aware of all payments the broker-dealer receives that could potentially affect the integrity of the advice and services the broker-dealer provides to that investor. Schwab believes these types of payments, including dealer concessions, should be disclosed to investors at point of sale.

Disclosure of Asset-Based Sales and Service Fee at Point of Sale. Schwab strongly supports disclosure of the asset-based sales and service fees broker-dealers receive from issuers of Covered Securities, but we believe broker-dealers should disclose these fees in the same manner as they disclose revenue sharing payments—at point of sale. Proposed Rule 15c2-2(f)(16) defines "revenue sharing" as any "arrangement or understanding by which a person within a fund complex, *other than the issuer of the covered security*, makes payments to a broker, dealer or municipal securities dealer, or any associated person of the broker, dealer or municipal securities dealer . . ." (italics added for emphasis). Schwab does not agree payments from issuers of Covered Securities should be excluded from this definition. Asset-based sales and service fees are payments that broker-dealers receive from issuers for distribution, shareholder, and/or other services. Payments for distribution services present the same conflicts of interest for broker-dealers and associated persons regardless of whether they are paid by the issuer of a Covered Security or by its affiliates. The payments increase the likelihood that the broker-dealer will favor the sale of one Covered Security over another based solely, or in part, on the remuneration it receives from the issuer.[10] In Schwab's view, then, asset-based sales and service fees paid by the issuer for distribution services are simply another form of "revenue sharing," and as such, should be disclosed at point of sale and on Schwab's proposed broker-dealer conflicts of interest website.[11] If the Commission revises the definition of revenue sharing to include payments received from the issuer of the Covered Security, as recommended by Schwab, then asset-based sales

[10] Arguably, asset-based sales and service fees paid by issuers to broker-dealers may be less problematic because, unlike payments from affiliates, they are disclosed to investors in the mutual fund prospectus in the expense table. However, the focus of point of sale disclosure should not be disclosure of mutual fund expenses—these are already disclosed in the fund's prospectus in full and the prospectus should remain the principal and centralized source for mutual fund expense disclosure. Broker-dealer point of sale disclosures should focus solely on potential conflicts of interest. Regardless of whether the asset-based sales and service fees are disclosed by issuers elsewhere (and, further, regardless of whether those fees are reviewed and approved by the mutual fund's board of directors), these fees could provide an incentive for broker-dealers to recommend a particular fund if the fees are greater than those paid to the broker-dealer by other mutual funds.

[11] Of course, often these asset-based sales and service fees are intended to compensate broker-dealers for shareholder services they provide to fund shareholders, such as sub-accounting, transaction processing and settlement, and distribution of confirmations, prospectuses and other regulatory shareholder documents. Schwab does not believe payment for these services presents the same conflicts of interest, if any at all. Nevertheless, payments received from fund affiliates for the same services are included within the definition of revenue sharing under the Proposed Rules. Although Schwab believes that these payments for shareholder services should be excluded from the definition of revenue sharing, these payments, in any event, should be treated consistently regardless of whether they are made by the fund or the fund's affiliates.

and service fees would be disclosed under Proposed Rule 15c2-3(a)(2)(i). As a result, Proposed Rule 15c2-3(a)(1)(ii) would be redundant and should be eliminated.

Disclosure of Portfolio Brokerage Commissions at Point of Sale. Schwab does not support point of sale disclosure of whether a broker-dealer receives portfolio brokerage commissions from a mutual fund or its affiliates. NASD Rule 2830(k) currently prohibits its members from conditioning the sale or distribution of mutual fund shares on the receipt of portfolio brokerage commissions. Recently, both the Commission and the NASD proposed rules that would further eliminate the potential conflicts of interest that could arise when mutual fund companies send portfolio brokerage to broker-dealers that also sell the mutual fund's shares.[12] If these proposed rules are adopted, Schwab believes that point of sale disclosure of whether the broker-dealer receives brokerage commissions from funds or their affiliates would be unnecessary and potentially misleading, suggesting a conflict of interest where none should, by law, exist.

Exception from Point of Sale Disclosure Requirements for Unsolicited Transactions. At point of sale, the broker-dealer would be required to disclose conflicts of interest that could influence the objectivity of the recommendations it makes to investors. When an investor makes an independent investment decision, without interacting with the broker-dealer or an associated person, the proposed point of sale disclosure would not be useful. In such cases, the investor's decision to purchase a particular security has not likely been influenced by the broker-dealer. Consequently, Schwab recommends that the Commission revise Proposed Rule 15c2-3(e) to provide an exception for unsolicited transactions.[13]

Schwab recognizes the possibility that certain revenue sharing arrangements could potentially influence an independent investor's investment choice even when there is no direct interaction with an associated person of the broker-dealer—for example, when a broker-dealer receives payment to include a mutual fund on its "preferred" mutual fund list and makes that list publicly available. Schwab believes product-specific disclosure is the most efficient way to alert all investors about these conflicts. Thus, in the example above, the broker-dealer should be required to disclose clearly on its "preferred" list that issuers or their affiliates pay to appear on the list. As a result, even investors who engage in unsolicited transactions, but rely on these types of investment tools, would be alerted to these potential conflicts of interest. For this reason, Schwab also believes that all broker-dealers should be required to supplement point of sale

[12] *See* SEC Release No. IC-26356 (Feb. 24, 2004); Proposed Amendment to Rule Relating to Execution of Investment Company Portfolio Transactions, File No. SR-NASD-2004-027 (Feb. 10, 2004)

[13] Although Schwab recognizes that disclosure of the amount of sales loads (but not necessarily dealer concessions) may be of use to unsolicited investors, we nevertheless believe that the unsolicited investor exception to disclosure of sales loads is appropriate. While disclosure of sales loads is important, Schwab believes that the substantial costs associated with requiring broker-dealers to provide sales load information (as well as other mutual fund expense information) at point of sale to unsolicited investors materially outweighs the benefits associated with that disclosure—particularly since information about sales loads is already disclosed in the mutual fund prospectus and, under the Proposed Rules, would also be disclosed on broker-dealer trade confirmations.

conflict of interest disclosure through more detailed and comprehensive web-based disclosure. This business practices website, which would disclose at a minimum all revenue sharing arrangements and associated person compensation practices, would be available to all investors, including self-directed investors. The Commission should also require broker-dealers to include narrative disclosure on trade confirmations that refers investors to the broker-dealer's website for more information about conflicts of interest. Similar disclosures could also be included on account applications and account statements. These additional disclosures will alert both solicited and unsolicited investors to the existence of the broker-dealer's business practices website.

Exception from Point of Sale Disclosure Requirements for Institutional Investors. In Schwab's view, the primary benefit of the Proposed Rules is to protect retail investors from potential conflicts of interest that could affect the objectivity of recommendations made by the broker-dealer or its associated persons. We see little benefit in providing these same disclosures to institutional investors, who are sufficiently sophisticated to ask the appropriate questions and understand the nature of the potential conflicts of interest. Schwab therefore proposes that the Commission revise Proposed Rule 15c2-3(e) to provide an exception for institutional investors. For purposes of this exception, we believe that the Commission should adopt the definition of "institutional investor" under NASD Rule 2211(a)(3), which includes, among other entities, banks, insurance companies, registered investment companies, and registered investment advisers.[14]

Additional General Comments. The Commission should clarify that the obligation to provide point of sale disclosure runs to the fiduciary authorized to execute trades in an investor's account, and not to the beneficial owner (that is, to the extent a fiduciary would not otherwise qualify for the institutional investor exception recommended by Schwab above). The disclosure requirements should be satisfied when the broker-dealer provides the point of sale disclosure to the fiduciary.

In addition, the Commission should allow broker-dealers the flexibility to determine the manner in which the point of sale disclosures are provided. While some broker-dealers may determine that the format of Schedule 15D as set forth in Attachments 4 and 5 of the Proposing Release is compatible with their trading systems, other broker-dealers may have difficulty adopting a standardized format, or its implementation could result in unreasonable or unnecessary costs. Provided the broker-dealer makes the disclosures required under the Proposed Rules in a clear and

[14] NASD Rule 2211(a)(3) defines "institutional investor" as any person described in Rule 3110(c)(4), regardless of whether that person has an account with an NASD member, any governmental entity or subdivision thereof, any employee benefit plan that meets the requirements of Section 403(b) or Section 457 of the Internal Revenue Code and has at least 100 participants, but does not include any participants of such a plan; any qualified plan, as defined in Section 3(a)(12)(C) of the Securities Exchange Act of 1934, that has at least 100 participants, but does not include any participant of such a plan; any NASD member or registered associated person of such a member; and any person acting solely on behalf of any such institutional investor. NASD Rule 3110(c)(4) includes, banks, savings and loan associations, insurance companies, investment advisers registered either with the Commission under Section 203 of the Investment Advisers Act of 1940 or with a state securities commission, and any other entity (including natural persons) with total assets of at least $50 million.

conspicuous manner, broker-dealers should have discretion in how best to deliver these disclosures to its customers.

Finally, Schwab believes that the Commission should clarify that a broker can demonstrate "reasonable belief" under the point of sale exception set forth under the Proposed Rule 15c2-3(e)(2) if the introducing broker by contract is obligated to make the required point of sale disclosures. We do not believe that the exception should require the clearing broker, in addition to that contractual representation, to conduct an audit of the introducing broker's compliance with the point of sale disclosure requirements. We note that introducing broker-dealers would have an independent obligation to comply with the point of sale disclosure requirements and would be subject to regulatory review. In addition, contracts between the clearing broker and the introducing broker already typically identify the respective responsibilities of the parties regarding other regulatory obligations (for example, anti-money laundering obligations under the USA PATRIOT Act). Schwab does not believe that the point of sale disclosures warrant a departure from current industry practice—particularly since an audit requirement would only serve to increase the already substantial implementation and on-going costs under the Proposed Rules.

II. The Commission Should Require Supplemental Web-Based Disclosure of Revenue Sharing, Differential Compensation and Other Conflicts of Interest

In Schwab's view, point of sale disclosures cannot alone provide investors with all the information they need to know about broker-dealer conflicts of interest. Revenue sharing arrangements and differential compensation practices, in particular, can be complex. It would be difficult—or at least impracticable—to describe these arrangements and sales practices in full on Schedule 15D or through certain order entry channels, such as by telephone. More importantly, point of sale disclosures would provide only limited access to this information, while Schwab believes it should be readily accessible to investors whenever that information is needed. The point of sale disclosures supported by Schwab will serve to alert investors about potential conflicts of interest and provide a general overview about the nature of those conflicts of interest. But investors should have access to more detailed and comprehensive information about broker-dealer activities that raise conflicts of interest. Schwab believes this can only be accomplished effectively through web-based disclosure.[15]

The advantage of supplemental web-based disclosure, in addition to providing more detailed information about potential conflicts of interest, is that investors will have continued access to this disclosure. Schwab believes the Commission should also require broker-dealers to include disclosure on trade confirmations—at a minimum—that refers investors to the website for additional information about revenue sharing, differential

[15] The broker-dealer's business practices website should be publicly available so that it can be reviewed by both current and prospective customers. Because all broker-dealers may not maintain websites, broker-dealers should be permitted to provide this additional conflicts of interest disclosure via a toll-free telephone number or through written materials delivered at the point of sale or along with the trade confirmation.

compensation and other conflicts of interest.[16] The Commission could also require that a broker-dealer's business practices website include educational information about conflicts of interest, including definitions of "revenue sharing," "differential compensation," and other important terms, to ensure that all investors can readily understand the provided disclosures. Web-based narrative disclosure would also be a cost-efficient means of communicating this important information to investors. Schwab estimates that the costs of establishing a business practices website would be less than $100,000.

Schwab does not support dollar amount disclosure of revenue sharing payments or portfolio brokerage commissions as required under the Proposed Rules. In our view, conflict of interest disclosure should seek to achieve two ends: first, of course, to inform investors about the existence and nature of the potential conflicts of interest, but, second, and perhaps most importantly, to describe the ways in which the broker-dealer mitigates or otherwise limits their impact. We question whether dollar amount disclosures are necessary to achieve these ends; in fact, we are concerned that dollar amount disclosures could potentially distract investors from focusing on these two key aspects of conflicts of interest disclosure. Ultimately, Schwab believes disclosure of the existence of such payments and their effects are far more important and relevant than the actual amounts received by the broker-dealer. More disclosure is not necessarily better, particularly when it presents a danger that investors may lose sight of its most important aspects.

In any event, dollar amount disclosure regarding revenue-sharing and other payments can also be misleading, in many cases overstating potential conflicts of interest in connection with investor purchases. Simply put, not all payments received from a fund complex are "in connection with a transaction," nor do all payments create conflicts of interest (e.g., networking and maintenances fees, sub-accounting fees, or prospectus and trade confirmation mailing costs). In other cases, the payments received may be so de minimis they do not create a conflict at all. Moreover, because in some cases broker-dealers may receive higher revenue sharing payments with respect to certain fund shares (e.g., institutional or retirement plan shares) than others (e.g., investor or retail shares), dollar amount disclosure that averages revenue sharing payments across a fund complex—as required under the Proposed Rules—may understate or overstate a potential conflict of interest with respect to recommendations of any particular share class. Ultimately, Schwab believes the dollar amount disclosures under the Proposed Rules are too simplistic an approach to disclosing potential conflicts of interest that arise from often complex revenue sharing arrangements and other sales practices. In Schwab's view, clear and concise narrative disclosure is the best way to disclose both the existence of these potential conflicts of interest and ways in which a broker-dealer seeks to limit their impact on investors.[17]

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[16] In addition, broker-dealers should also be required to mail the web-based disclosures to customers upon request, to ensure that investors who do not have computer or Internet access can still obtain this information.

[17] If the Commission nevertheless requires dollar amount disclosure of revenue sharing payments received "in connection with" an investor purchase, Schwab believes that disclosure should be expressed based on a standardized investment of $1,000. Though this disclosure is still potentially misleading for the reasons

III. The Commission Should Require Disclosure on Trade Confirmations That Refers Investors to the Broker-Dealer's Business Practices Website

Under Proposed Rule 15c2-2, trade confirmations for Covered Securities transactions would be required to disclose, in addition to general transactional information, distribution-related costs and other payments that may create potential conflicts of interests. Specifically, broker-dealers would be required to disclose, both as a dollar amount and percentage of the net amount invested, sales loads, asset-based sales and service fees, and other fees paid by the fund or its affiliates to the broker-dealer or its associated persons, including sales charges, revenue sharing payments, differential compensation, and portfolio brokerage commissions. While Schwab strongly supports disclosure of sales loads on trade confirmations as required by Proposed Rules 15c2-2(c)(1) and 15c2-2(c)(2), Schwab believes that disclosure of the remaining fees and payments on trade confirmations is neither appropriate nor useful to investors, as discussed in greater detail below. However, Schwab also believes that broker-dealers should be required to include clear and conspicuous narrative disclosure on trade confirmations that refers investors to the broker-dealer's business practices website.[18]

Disclosure of Sales Fees, Revenue Sharing and Differential Compensation on Trade Confirmations. According to the Commission, disclosure of sales fees, revenue sharing payments, and differential compensation will allow investors to better evaluate the conflicts of interest that may arise from these payments and, therefore, make more informed investment decisions. Schwab questions the value of providing this information to investors after those investment decisions have been made. In Schwab's view, conflict of interest disclosures are more meaningful and useful when provided to the investor prior to the investment decision, not afterward. Arguably, this disclosure may have some limited value to investors, permitting them to confirm the accuracy of the disclosure made by the broker-dealer at point of sale. However, Schwab disagrees that the value of this redundant disclosure would outweigh the substantial costs that broker-dealers—and ultimately investors—would bear to provide these disclosures. In addition, if the Commission requires additional web-based disclosure of conflicts of interest as recommended by Schwab above, investors will be able to confirm the accuracy of point of sale disclosures through the broker-dealer's business practices website.[19] For these reasons, subject to our comments above, Schwab supports disclosure of sales fees,

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stated above, standardized disclosure would best allow investors to compare the levels of conflicts of interest among broker-dealers and, thus, would be more meaningful and useful to investors than personalized, transaction-based dollar amount disclosure. The Commission previously acknowledged the advantages of standardized expense disclosure and the costs and complexity that personalized disclosure entails. *See* SEC Release Nos. 33-8393; 34-49333; IC 26372 (Feb. 27, 2004).

[18] Broker-dealers should be required to provide the website address of the business practices website as part of this narrative trade confirmation disclosure to ensure that investors can readily find and access the website.

[19] As noted above, investors should be referred to the broker-dealer's business practices website through required disclosure on trade confirmations. In addition, broker-dealers could also include similar disclosures referencing the website on account applications and/or account statements.

revenue sharing payments and differential compensation at point of sale rather than on the trade confirmation.[20]

In any event, as discussed above, Schwab believes dollar amount disclosure of revenue sharing and portfolio brokerage commissions on the trade confirmation would lead investors to believe mistakenly that these are fees paid from the amount invested. The disclosure suggests that the broker-dealer receives these payments "in connection with the transaction." But in fact many forms of revenue sharing payments—such as sponsorship fees received from mutual fund affiliates for investor conferences and seminars—are unrelated to the customer's purchase of the Covered Securities. And still other "revenue sharing" payments may create no conflict of interest at all. In addition, also as discussed above, disclosure of portfolio brokerage commissions, which also are not received in connection with the investor's purchase, further suggests a conflict of interest where none likely exists, given current and proposed securities regulations on directed brokerage.

Disclosure of Asset-Based Sales and Service Fees on Trade Confirmations. Schwab strongly supports disclosure of asset-based sales and service fees, but we believe the trade confirmation is not the appropriate source for this disclosure. Investors should understand the impact of distribution-related costs on their investments, but it is far more important that they understand the impact of mutual fund fees in their totality. Proposed Rule 15c2-2 places too much emphasis on only a small portion of a fund's total annual operating expenses (OER), excluding other more important and more substantial fund fees from equal consideration—most notably, the fund's investment management fee. As a result, investors may incorrectly conclude that a fund which charges lower asset-based sales and service fees is less expensive than an alternative mutual fund, even though the fund's OER is substantially higher.

Under Form N-1A, a mutual fund must disclose the management fee, distribution fee (i.e., Rule 12b-1 fee), service fee, and other expenses, and the total annual fund operating expenses in the prospectus fee table.[21] The prospectus must further include an example illustrating the estimated dollar amount an investor would incur on his or her investment over time (one, three, five and ten years) based on the annual fund operating expenses disclosed in the fee table. Recently, the Commission adopted rules that would require mutual funds to disclose in their shareholder reports annual fund expenses based on a standardized $1,000 investment.[22] Schwab believes that the fund prospectus and shareholder reports provide a complete picture of fund expenses and are the most effective means of educating investors about the impact mutual fund fees have on their investments. The Commission should not undercut the effectiveness of these comprehensive disclosures by emphasizing only a portion of total mutual fund costs on

[20] If the Commission revises the Proposed Rules consistent with Schwab's recommendation, the Commission will also need to revise Schedule 15C to remove the explanations and definitions relating to sales fees, revenue sharing and differential compensation.

[21] *See* Form N-1A, Item 3.

[22] *See* SEC Release Nos. 33-8393; 34-49333; IC 26372 (Feb. 27, 2004).

trade confirmations.[23] To encourage investors to refer to the fund prospectus and shareholder reports, Schwab would support additional narrative disclosure in the trade confirmations that refer investors to the fund prospectus and shareholder report for more information about mutual fund expenses.

As discussed above, rather than including asset-based sales and service fees on the trade confirmation, Schwab believes broker-dealers should disclose the asset-based sales and service fees they receive from mutual funds at point of sale, in the same manner that they would be required to disclose other revenue sharing payments.

Disclosure of Portfolio Brokerage Commissions on Trade Confirmations. For the same reasons that Schwab does not support disclosure of portfolio brokerage commissions at point of sale, Schwab opposes dollar amount disclosure of portfolio brokerage commissions on trade confirmations. In addition to our concerns discussed above, Schwab is concerned about the challenges and costs associated with providing dollar amount disclosure of portfolio brokerage commissions on trade confirmations, particularly since the broker-dealer would be required to aggregate commissions, for example, from all mutual funds within a fund complex. Schwab believes that these substantial costs are unwarranted given the dubious benefit these disclosures will have to investors.[24]

Disclosure of Comparison Ranges on Trade Confirmations. Proposed Rule 15c2-2(e) would require broker-dealers to disclose industry ranges and medians for sales loads, asset-based sales charges and service fees, sales fees, revenue sharing and portfolio brokerage commissions. According to the Commission, this disclosure will enable investors to compare both the fund and broker-dealer costs associated with their investment with industry norms. Schwab strongly opposes Proposed Rule 15c2-2(e). As an initial matter, it is not clear that the data necessary to perform these calculations exists or, if currently available, whether it can be accurately collected and processed and efficiently distributed to broker-dealers.

Schwab also has concerns about the usefulness of the proposed comparison ranges to investors. As an initial matter, it would be difficult to classify certain Covered

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[23] Importantly, mutual funds do not necessarily use 12b-1 assets to pay broker-dealers for many of the services they provide. For example, payments for shareholder servicing may be paid out of non-12b-1 assets. In cases where only a portion or none of the 12b-1 assets are used to pay shareholder service fees, disclosing the asset-based sales charge that the broker-dealer receives from the fund—which is only a portion of the fund's total asset-based sales charge the investor pays—could mislead investors as to the actual impact of fund fees because the asset-based fee disclosed on the trade confirmation will be less than the fee stated in the prospectus.

[24] Absent conflicts of interest, portfolio brokerage commission disclosure can only serve to educate investors about the impact these costs can have on overall mutual fund expenses and performance. Schwab believes that the fund's prospectus is best suited to provide this important disclosure and generally supports the Commission's recent efforts to improve disclosure of mutual fund transaction costs, including portfolio brokerage commissions. *See* Release Nos. 33-8349; 34-48952; IC-26313 (Dec. 19, 2003). In any event, if the Commission decides that broker-dealers should disclose this information, we recommend that this disclosure be provided only at point of sale in the same manner as other conflict of interest disclosures.

Securities in a way that ensures "apples to apples" comparison—particularly mutual funds with specialized investment objectives and strategies that are not conducive to standardized categorization. Even assuming that the Commission could potentially categorize all Covered Securities, investors may nevertheless inappropriately rely on these disclosures in lieu of other more important investment considerations, such as fund performance and overall fund expenses. Moreover, an investor's trade confirmation could understate (or overstate) the category medians and ranges if the category includes mutual funds or share classes not available for purchase by that investor and which are subject to lower (or higher) expense ratios and separate distribution-related arrangements (e.g, if it includes institutional fund shares not available to retail investors). Given the substantial costs comparison range disclosures will impose on the brokerage industry and investors, as well as the uncertainty as to the feasibility and value of such disclosure, Schwab believes that the Commission should eliminate this requirement.

Schwab nevertheless recognizes the value of providing investors with the ability to compare the level of conflicts of interest among broker-dealers. We believe the Commission and the industry should work together to find a more effective and feasible way to facilitate these comparisons as part of a unified effort to develop a more comprehensive disclosure model.

IV. The Benefits of the Proposed Rules Do Not Outweigh the Substantial and Unreasonable Costs Associated with Implementation and Ongoing Compliance

The Commission believes that the trade confirmation and point of sale disclosure requirements under Proposed Rules 15c2-2 and 15c2-3, respectively, benefit investors because they will provide investors with information about distribution-related costs that have the potential to reduce their investment returns and create conflicts of interest. As noted above, while Schwab strongly agrees that information about these costs and conflicts of interest can be important to investors, we do not believe that the disclosures set forth under the Proposed Rules warrant the substantial costs they would impose on broker-dealers—and ultimately individual investors.

According to the Commission's own estimates, one-time implementation costs associated with the proposed trade confirmation would equal approximately $157,407 per broker-dealer. Ongoing annual costs for the proposed trade confirmation disclosures would equal approximately $367,593 per broker-dealer. The estimated costs associated with the proposed point of sale disclosures are not as high, but nevertheless substantial. The Commission estimates that one-time implementation cost associated with the proposed point of sale disclosures would equal approximately $83,333 per broker-dealer, while ongoing annual costs would equal approximately $180,556 per broker-dealer. These estimates amount to a combined $1.3 billion in implementation costs and $3 billion in annual, ongoing costs for the broker-dealer industry. Schwab believes these cost estimates, while staggering, dramatically understate the actual costs of implementing the Proposed Rules.

The Proposed Rules will require systems changes that extend far beyond upgrades in only the functionality of the broker-dealer's trade confirmation systems. The Proposed Rules would also require changes in functionality of other systems within the broker-dealer (e.g., billing systems) to ensure that data necessary to calculate the required disclosures is collected and appropriately archived.[25] Complex programming would be required to ensure accurate communication of data between these various billing and other system databases and the broker-dealer's trade confirmation systems. The broker-dealer would then need to conduct extensive testing on the affected systems because failure to accurately provide the information on the trade confirmation would result in regulatory violations and expose the broker-dealer to substantial financial liability. Most importantly, the broker-dealer would need to create entirely new back-up systems for each database or other system that is relied upon to help provide the required disclosures. This means that broker-dealers would have to establish redundant systems for currently non-critical systems so that, in the case of system downtime, the broker-dealer could continue to meet its trade confirmation obligations under Proposed Rule 15c2-2.

The costs of complying with the point of sale disclosures under Proposed Rule 15c2-3 as proposed would be no less substantial. In fact, because point of sale delivery systems for mutual funds do not currently exist and must be provided through multiple order entry systems, these disclosure requirements present an even greater challenge for broker-dealers. A broker-dealer would need to integrate the appropriate fee information databases with its branch and call center networks as well as its web portals and other automated channels, such as automated phone and wireless trading systems.[26] Again, extensive testing on these systems across multiple channels would be required and back-up systems would need to be put in place.

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[25] In some instances, significant costs may be incurred in attempting to obtain and deliver data that is not currently available or that cannot practicably be accumulated, processed and reflected on trade confirmations and at point of sale in a cost efficient manner. For example, broker-dealer systems may not currently contain sufficient information to distinguish asset-based sales charges from asset-based sales fees, or, for that matter, either of those payments from the total aggregate payments received by the broker-dealer from mutual fund companies and their affiliates that make funds available through the broker-dealer's mutual fund platform. A broker-dealer would first need to obtain contractual obligations from fund companies and their affiliates to provide this information to the broker-dealer (at significant cost) and then build functionality within its systems to distinguish these various fees, as well as the fees received from other revenue-sharing arrangements. In addition, not all data necessary to provide the required trade confirmation disclosures exists in a centralized database. Consequently, that external data would need to be incorporated into a centralized data base or additional programming would need to be done to connect multiple databases to the trade confirmation and point of sale delivery systems. In any event, as discussed in Section II of this comment letter, the dollar amount disclosures under the Proposed Rules are potentially misleading and may deter investors from focusing on more important and meaningful conflict of interest disclosures. In light of the enormous costs associated with providing dollar amount disclosure, its relative value is even more questionable.

[26] The Proposed Rules present special challenges for other electronic order entry channels made available by broker-dealers. For example, some broker-dealers currently accept electronic order files from their investment adviser clients through a web-based interface. Each trade file contains multiple orders submitted by the investment adviser on behalf of the adviser's client. Absent an institutional investor exception from the point of sale disclosure requirements, it is unclear how such a broker-dealer would provide point of sale disclosure to investment advisers with respect to each specific order within the electronic order file.

This complex series of systems modifications could not be accomplished quickly or without imposing substantial and unreasonable costs on broker-dealers. We estimate that Schwab's one-time implementation costs associated with compliance under Proposed Rules 15c2-2 and 15c2-3 would equal approximately $4.5 million, far exceeding the Commission's cost estimate of $240,740.

Schwab believes that the Commission may also have underestimated ongoing annual costs associated with the Proposed Rules. The required disclosures as reflected on Schedule 15C take up both the entire front and back page of the trade confirmation. Yet the Proposed Rules leave no room for additional disclosures that a broker-dealer would be required to include on the trade confirmation. For starters, broker-dealers would need to include the investor's mailing address. Broker-dealers may also need to include additional terms and conditions, as well as other disclosures to ensure that the trade confirmation is not misleading.[27] Moreover, under the Proposed Rules it appears that broker-dealers would be required to make the same disclosures with respect to each underlying fund in a variable annuity or municipal fund security (e.g., a 529 College Savings Plan). In total, Schwab believes these disclosures will extend the length of most confirms to at least two pages, substantially increasing mailing costs and, thus, overall on-going annual costs of trade confirmations.[28] We estimate that the additional annual recurring costs Schwab would incur under Proposed Rules 15c2-2 and 15c2-3 would equal approximately $2 million. This amount includes, among other things, the costs related to the production and mailing of trade confirmations, ongoing systems and data maintenance, and the incremental customer service time associated with delivering oral point of sale disclosures when taking orders in-person or by telephone.

While cost alone should not determine the manner in which important disclosures are delivered to investors, these costs—which will ultimately be borne by investors—should weigh heavily in the Commission's consideration of the Proposed Rules. In the Proposing Release, the Commission expressly acknowledges that the benefits of the Proposed Rules "while qualitatively important, are necessarily difficult to quantify."[29] Schwab believes that the Commission should provide a more compelling basis for implementing the Proposed Rules prior to imposing billions of dollars of costs on the

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[27] The preliminary notes to Proposed Rules 15c2-2 and 15c2-3 state that the information required to be disclosed under those rules are not determinative of, and do not exhaust, a broker-dealer's obligations under the general antifraud provisions of the federal securities laws or other legal requirements to disclose additional information to customers on the trade confirmation or at point of sale. Given the lack of a limited "safe harbor" under the Proposed Rules, Schwab anticipates that broker-dealers will, if not initially then over time, need to add a multitude of disclosures to the trade confirmation and at point of sale to ensure compliance with the general antifraud provisions and limit potential liability. As a result, trade confirmations will expand from one page to two or more pages, leading to substantially increased printing and mailing costs.

[28] Schwab anticipates that, under the Proposed Rules, trade confirmations will initially expand to two pages instead of one. We estimate that the additional annual mailing costs, including associated labor costs, will alone constitute an increase of approximately $300,000 annually.

[29] *See* Proposing Release at 60, 63.

broker-dealer industry and investors. Notably, when the Commission recently adopted rules that required mutual funds to disclose annual fund expenses in shareholder reports based on a standardized investment, the Commission acknowledged that personalized disclosure would require financial intermediaries to implement at a "substantial" cost new systems to calculate and report personalized expense information. The Commission estimated that those system changes would, in the aggregate, cost the broker-dealer industry approximately $200 million to implement and $65 million in annual, ongoing costs—yet this is just a fraction of the total costs the industry would incur under the Proposed Rules.

Given the substantial and unreasonable costs associated with the Proposed Rules, in addition to our concerns that the proposed disclosures may in some respects be potentially misleading rather than helpful to investors, Schwab urges the Commission to work with the securities industry—and investors—to construct an equally effective, but less costly alternative to comprehensive disclosure of distribution-related costs and conflicts of interest. But as a meaningful first step towards that disclosure model, the point of sale and web-based disclosure will provide investors with the same level of information about broker-dealer conflicts of interest at far lesser cost. Schwab estimates that implementation costs for its proposed point of sale disclosures would equal approximately $300,000, while the implementation costs for the business practices website would not exceed $100,000. In addition to being more cost efficient, Schwab's proposed revisions to the point of sale disclosures would also be easier to implement, thereby reducing the time it would take for broker-dealers to comply with the rules. As a result, investors would have access to this important conflicts of interest information sooner than the under the Proposed Rules.

V. Comments on the Effective Date of the Proposed Rules

In the proposing release, the Commission does not provide a proposed effective date for the Proposed Rules. If the Commission requires the point of sale and web-based conflicts of interest disclosure recommended by Schwab, we believe that broker-dealers would need no more than six months to implement the disclosures. In contrast, if the Proposed Rules are adopted without modification, Schwab believes broker-dealers will require a minimum of two years to make the necessary changes to their trade confirmation systems, develop point of sale disclosure systems and processes, and make all other necessary and related changes.

VI. Conclusion

Schwab strongly supports the Commission's goal to provide investors with better information about distribution-related costs and the potential conflicts of interest that arise from various distribution arrangements. However, given that many of the disclosures required under the Proposed Rules could mislead rather than better inform investors, and the substantial costs broker-dealers and ultimately investors would incur under the rules, Schwab believes the Commission and the industry together should seek an equally effective but less costly alternative to comprehensive disclosure of

distribution-related costs and conflicts of interest. Schwab nevertheless believes there is an immediate need to provide investors with information about broker-dealer practices that create potential conflicts of interest. Simply put, all investors should be on notice prior to their investment decision of any business practices that may compromise the objectivity of recommendations made by broker-dealers and their associated persons. To that end, we encourage the Commission to require the point of sale and web-based conflicts of interest disclosures recommended by Schwab. Schwab believes its recommended approach to disclosure of broker-dealer conflicts of interest effectively provides investors with this important information—at the time when it is most meaningful and useful to investors—while limiting the substantial costs associated with the Proposed Rules. If you have questions about this letter, please contact the undersigned at (415) 636-3649 or at david.lekich@schwab.com.

Sincerely,

/s/ David J. Lekich

David J. Lekich
Vice President and Senior Corporate Counsel
CHARLES SCHWAB & CO., INC.

cc: Catherine McGuire
Paul F. Roye