

3. None of the Citigroup Affiliates will adopt any compensation scheme any component of which is based on the amount of business done by the Citigroup Funds with State Street Affiliates. None of the State Street Affiliates will adopt any compensation scheme any component of which is based on the amount of business done by the State Street Funds with Citigroup Affiliates.

4. None of Citigroup Member, State Street Member or the Venture Entities will directly or indirectly control any Citigroup Fund, State Street Fund, or any investment adviser, promoter, or principal underwriter of any Citigroup Fund or State Street Fund.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25144; 812-12134]

The Charles Schwab Family of Funds, et al.; Notice of Application

August 29, 2001.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application for an order under section 12(d)(1)(j) of the Investment Company Act of 1940 (the "Act") for an exemption from section 12(d)(1) of the Act, under section 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act, and under section 17(d) of the Act and rule 17d-1 under the Act to permit certain joint transactions.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered management investment companies to use cash collateral from securities lending transactions to purchase shares of affiliated registered management investment companies or affiliated private investment funds, and to pay fees based on a share of the revenue generated from securities lending transactions to an affiliated agent.

Applicants: The Charles Schwab Family of Funds, Schwab Investments, Schwab Capital Trust, Schwab Annuity Portfolios (each a "Trust" and, together, the "Trusts"), on behalf of each of their existing or future series (each a "Fund" and, together, the "Funds"), Charles

Schwab Investment Managements, Inc. ("CSIM"), and Charles Schwab & Co., Inc. (CS&Co.).

Filing Dates: The application was filed on June 20, 2000, and amended on August 17, 2001.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 24, 2001, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609; Applicants, 101 Montgomery Street, San Francisco, CA 94104.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 942-0574 or Mary Kay Frech, Branch Chief, at (202) 942-0564, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549-0102 (telephone (202) 942-8090).

Applicants' Representations

1. Each Trust is a Massachusetts business trust registered under the Act as an open-end management investment company. Each Trust offers multiple Funds. The Money Market Fund, Value Advantage Fund, Government Securities Fund, and Treasury Fund (the "Registered Investment Funds") are money market Funds that comply with the requirements of rule 2a-7 under the Act. CSIM, a wholly-owned subsidiary of The Charles Schwab Corporation ("Charles Schwab"), is registered as an investment adviser under the Investment Advisers Act of 1940. CSIM serves an investment adviser and provide administrative services to each Fund. CS&Co., a wholly-owned subsidiary of Charles Schwab, acts as principal underwriter of the shares of each Registered Investment Fund and

provides shareholder and transfer agency services to each Fund.

2. Applicants request that any relief granted pursuant to the application also apply to (a) any other registered open-end investment company that is advised or sub-advised by CSIM or any entity controlling, controlled by, or under common control with CSIM and is part of the same group of investment companies, as defined in section 12(d)(1)(G)(ii) of the Act as the Trust ("Future Fund") and (b) any investment entity excluded from the definition of investment company under section 3(c)(1) or section 3(c)(7) of the Act, advised by CSIM, and established for the purpose of investment of cash collateral in connection with the securities lending program described below ("Private Investment Fund" and together with the Registered Investment Funds, the "Investment Funds").¹

3. CS&Co. proposes to establish and administer a securities lending program ("Program") for the Funds. In connection with the Program, CS&Co. will enter into a securities lending agreement ("Securities Lending Agreement") with the Funds that participate as lenders in the Program ("Lending Funds"). The Securities Lending Agreement will authorize CS&Co., as agent for a Lending Funds, to enter into a borrowing agreement ("Borrowing Agreement") with one or more entities designated by CS&Co and approved by the Lending Funds as eligible to borrow portfolio securities ("borrowers"). The Securities Lending Agreement and the Borrowing Agreement will establish, with respect to each transaction, the initial and on-going collateralization requirements, the types of collateral that may be accepted, and the manner in which the Borrower's rebate will be established. With respect to cash collateral, a Borrower will be paid a fixed return on the cash collateral for the term of the loan. The difference between the fixed return and the actual return on the investment of the cash collateral is divided between the Lending Fund and CS&Co. In the case of collateral other than cash, the Borrower pays the Lending Fund a lending fee, which is split between the Lending Fund and CS&Co.

4. The Securities Lending Agreement will authorize and instruct CS&Co. as agent for the Lending Fund to invest the cash collateral in accordance with specific guidelines or instructions

¹ All existing entities that currently intend to rely on the requested relief have been named as applicants. Any future Fund or Private Investment Fund will rely on the requested relief only in accordance with the terms and conditions of the application.

provided by the Lending Fund. These guidelines or instructions will identify the particular Investment Funds or other investment vehicles, instruments, and accounts, if any, in which cash collateral may be invested, and the amounts or percentages of cash collateral that may be invested in each Investment Funds and other authorized investments. Applicants state that the personnel who will provide lending agency services to the Lending Funds will not provide investment advisory services to the Lending Funds or participate in any way in the selection of portfolio securities or other aspects of the portfolio management of the Lending Funds.

5. CS&Co. is proposing to invest cash collateral received in the Program on behalf of a Lending Fund in units of beneficial interests of one or more of the Investment Funds ("Shares") to the extent permitted by the Securities Lending Agreement between CS&Co. and a Lending Fund. Shares will not be subject to any sales load, redemption fee, asset-based sales charge, or service fee (as defined in rule 2830(b)(9) of the Rules of Conduct of the National Association of Securities Dealers, Inc. ("NASD")). The Private Investment Funds will comply with the requirements of rule 2a-7 under the Act, except CSIM as the general partner of the Private Investment Funds shall take any action required to be taken by the board of directors under rule 2a-7. Each Private Investment Fund will offer daily redemption of Shares at the current net asset value per share. As agent for the Lending Fund, CS&Co. will not purchase Shares of an Investment Fund with cash collateral unless participation in the Program has been approved by a majority of the trustees of the Lending Fund who are not "interested persons" within the meaning of section 2(a)(19) of the Act ("Independent Trustees"). In addition, CS&Co. will not purchase Shares of any Investment Fund, unless the Lending Fund has represented to CS&Co., among other things, that: (a) Its policies generally permit the Lending Fund to engage in securities lending transactions; (b) the transactions will be conducted in accordance with the conditions prescribed by the staff in various no-action and interpretive letters as they may be modified or updated; (c) it policies permit the Lending Fund to purchase Shares of the Investment Funds; and (d) its securities lending activities will be conducted in accordance with all representations and conditions in the application applicable to the Lending Fund.

6. Applicants request an order to permit the Lending Funds to use cash

collateral received from Borrowers to purchase Shares of the Investment Funds. Applicants also request an order to permit the Lending Funds to pay CS&Co., for its services as lending agent, fees based on a share of the revenue generated from securities lending transactions undertaken pursuant to the Program.

Applicants' Legal Analysis

A. Investment of Cash Collateral by the Lending Funds in the Investment Funds

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may knowingly sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by the investment companies.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent the exemption is consistent with the public interest and the protection of investors.

3. Applicants seek an order under section 12(d)(1)(I) of the Act exempting them from the provisions of section 12(d)(1) of the Act to permit the Lending Funds to purchase, and the Registered Investment Funds to sell, Shares in excess of the limits imposed by sections 12(d)(1)(A) and 12(d)(1)(B) in connection with the Lending Funds' investment of cash collateral.

4. Applicants state that the proposed investment of cash collateral in Shares of the Registered Investment Funds will not give rise to the policy concerns underlying sections 12(d)(1)(A) and (B). Shares will not be subject to any sales load, redemption fee, asset-based sales charge, or service fee. Applicants state that the advisory and other fees of the Lending Fund associated with securities lending activities will be determined solely with respect to its own assets (including the assets that are being loaned) and will not be affected by the value of the collateral received in connection with the loan because the

collateral will not increase the net asset value of the Lending Funds.

Accordingly, applicants state that the fees charged by an Investment Fund with respect to these additional assets, including fees for advisory, custody, transfer agency, and administrative services should not be viewed as duplicative of the fees charged by the Lending Funds with respect to the underlying securities that have been loaned. Applicants state that each Registered Investment Fund, because it will comply with rule 2a-7, has the necessary liquidity to satisfy the demands of the Program and will not be susceptible to control through the threat of large-scale redemptions. Moreover, an Investment Fund will not invest in any investment company in excess of the limits of section 12(d)(1)(A) of the Act.

5. Section 17(a)(1) and 17(a)(2) of the Act make it unlawful for any affiliated person of a registered investment company, or any affiliated person of the affiliated person, acting as principal, to sell any security to, or purchase any security from, the registered investment company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; any person directly or indirectly controlling, controlled by, or under common control with the other person; and, in the case of an investment company, its investment adviser. As investment adviser to the Lending Funds and the Investment Funds, CSIM could be deemed to control both the Lending Funds and the Investment Funds. Accordingly, the Lending Funds and Investment Funds could be deemed to be under common control and affiliated persons of each other. In addition, if a Lending Fund acquire 5% or more of an Investment Fund's securities, the Lending Fund and Investment Fund would be deemed affiliated persons of each other. In light of these possible affiliations, section 17(a) could prevent an Investment Fund from selling Shares to and redeeming Shares from the Lending Funds.

6. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) if the terms of the proposed transactions, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each registered investment company concerned, and the general purposes of the Act. Section 6(c) of the Act provides

that the Commission may exempt any person, security, or transaction from any provision of the Act if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

7. Applicants request an order under sections 6(c) and 17(b) of the Act to permit the Lending Funds to purchase and redeem from the Investment Funds, and the Investment Funds to sell and to redeem for the Lending Funds, Shares in one or more of the Investment Funds. Applicants state that the Lending Funds will purchase, hold, and redeem Shares on the same basis as any other holder of Shares. Applicants assert that a Lending Fund's cash collateral will be invested in a particular Investment Fund only if that Investment Fund invests in the types of instruments that the Lending Fund only if that Investment Fund invests in the types of instruments that the Lending Fund has authorized for the investment of its cash collateral. Applicants state that cash collateral of a Lending Fund that complies with rule 2a-7 under the Act will not be used to acquire Shares of any Investment Fund that does not comply with rule 2a-7 under the Act. Applicants state that permitting the Lending Funds to invest cash collateral in the Private Investment Funds enables the Lending Funds to invest in a lower-cost vehicle with liquidity, maturity, quality and diversification similar to a registered investment company that complies with rule 2a-7. For these reasons, applicants believe their requested relief meets the standards of sections 6(c) and 17(b) of the Act.

8. Section 17(d) of the Act and rule 17d-1 under the Act prohibit any affiliated person of or principal underwriter for a registered investment company or any other affiliated person of such persons, acting as principal, from effecting any transaction in connection with any joint enterprise or other joint arrangement or profit sharing plan in which the investment company participates, unless an application regarding the joint transaction has been filed with the Commission and granted by an order. CSIM, as investment adviser, is an affiliated person of the Lending Funds and the Investment Funds. CS&Co. is an affiliated person of an affiliated person of the Lending Funds and the Investment Funds, because CS&Co. and CSIM are both wholly-owned subsidiaries of Charles Schwab and are therefore under common control.

9. Applicants state that the Lending Funds, CSIM (by serving as investment

adviser to and providing other services to the Investment Funds at the same time that the Investment Funds sell Shares to and redeem them from the Lending Funds and by managing the portfolio securities of the Lending Funds and the Investment Funds at the same time that the Lending Funds' cash collateral is invested in Shares), CS&Co. (by acting as lending agent, investing cash collateral in Shares and receiving a portion of the revenue generated by securities lending transactions), and the Investment Funds (by selling Shares to and redeeming them for the Lending Funds), could be deemed to be participants in a joint enterprise or arrangement within the meaning of section 17(d) and rule 17d-1 under the Act.

10. Under rule 17d-1, in passing on applications for orders under section 17(d), the Commission considers whether the company's participation in the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants. Applicants submit that the proposed transactions meet these standards, because the Lending Funds will invest in the Investment Funds on the same basis as any other shareholder.

B. Payment of Fees by the Lending Funds to CS&Co.

1. Applicants state that CS&Co. as an entity under common control with CSIM, the investment adviser to the Lending Funds, is an affiliated person of an affiliated person of the Lending Funds. As noted above, section 17(d) and rule 17d-1 generally prohibit joint transactions involving investment companies and their affiliated persons unless the Commission has approved the transaction. Applicants state that a lending agent agreement between a registered investment company and an affiliated person of the investment company under which compensation is based on a share of the revenue generated by the lending agent's efforts may constitute a joint arrangement within the meaning of section 17(d) and rule 17d-1. Consequently, applicants request an order to permit the Lending Funds to pay, and CS&Co. as lending agent to accept, fees based on a share of the revenue generated from securities lending transactions undertaken pursuant to the Program.

2. Applicants propose that each Trust, on behalf of a Lending Fund, adopt the following procedures to ensure that the proposed fee arrangement and the other terms governing the relationship with

CS&Co., as lending agent, will meet the standards of rule 17d-1:

a. In connection with the approval of CS&Co. as lending agent for a Trust on behalf of a Lending Fund and implementation of the proposed fee arrangement, a majority of the board of trustees ("Board") of the Lending Fund, including a majority of the Independent Trustees, will determine that: (i) the contract with CS&Co. is in the best interests of the Lending Fund and its shareholders; (ii) the services to be performed by CS&Co. are appropriate for the Lending Fund; (iii) the nature and quality of the services provided by CS&Co. are at least equal to those provided by others offering the same or similar services for similar compensation; and (iv) the fees for CS&Co.'s services are fair and reasonable in light of the usual and customary charges imposed by others for services of the same nature and quality.

b. Each Trust's contract with CS&Co. on behalf of its Lending Funds for lending agent services will be reviewed annually and will be approved for continuation only if a majority of the Board, including a majority of the Independent trustees, makes the findings referred to in paragraph (a) above.

c. In connection with the initial implementation of an arrangement whereby CS&Co. will be compensated as lending agent based on a percentage of the revenue generated by a Lending Fund's participation in the Program, the Board will obtain competing quotes with respect to lending agent fees from at least three independent lending agents to assist the Board in making the findings referred to in paragraph (a) above.

d. The Board of each Trust, including a majority of its Independent Trustees, (i) at each regular quarterly meeting will determine, on the basis of reports submitted by CS&Co., that the loan transactions during the prior quarter were conducted in compliance with the conditions and procedures set forth in the application and (ii) will review no less frequently than annually the conditions and procedures set forth in the application for continuing appropriateness.

e. Each Lending Fund will (i) maintain and preserve permanently in an easily accessible place a written copy of the procedures and conditions (and modifications thereto) described in the application or otherwise followed in connection with lending securities pursuant to the Program and (ii) maintain and preserve for a period of not less than six years from the end of

the fiscal year in which any loan transaction pursuant to the Program occurred, the first two years in an easily accessible place, a written record of each loan transaction setting forth a description of the security loaned, the identity of the person on the other side of the loan transaction, and the terms of the loan transaction. In addition, each Lending Fund will maintain all information or materials upon which a determination was made in accordance with the procedures set forth above and the conditions to the application.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

1. The securities lending program of each Lending Fund will comply with all present and future applicable Commission and staff positions regarding securities lending arrangements.

2. The approval of the relevant Trust's Board, including a majority of the Independent Trustees, will be required for the initial and subsequent approvals of CS&Co.'s service as securities lending agent for each Lending Fund pursuant to the Program, for the institution of all procedures relating to the Program as it related to a Lending Fund, and for any periodic review of loan transactions for which CS&Co. acted as lending agent pursuant to the Program.

3. A majority of the Board of each relevant Trust, including a majority of the Independent Trustees, will initially and at least annually thereafter determine that the investment of securities lending cash collateral in Shares of the Investment Funds is in the best interests of the shareholders of each Lending Fund.

4. Investment in Shares of an Investment Fund by a particular Lending Fund will be consistent with such Lending Fund's investment objectives and policies.

5. Investment in Shares of an Investment Fund by a particular Lending Fund will be in accordance with the guidelines regarding the investment of securities lending cash collateral specified by the Lending Fund in the Securities Lending Agreement. A Lending Fund's cash collateral will be invested in a particular Investment Fund only if that Investment Fund has been approved for investment by the Lending Fund and if that investment Fund invests in the types of instruments that the Lending Fund has authorized for the investment of its cash collateral.

6. The Shares of an Investment Fund will not be subject to a sales load,

redemption fee, any asset-based sales charge, or service fee (as defined in rule 2830(b)(9) of the Conduct Rules of the NASD).

7. An Investment Fund will not acquire securities of any investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

8. Each Private Investment Fund will comply with the requirements of sections 17(a), (d), and (e) and 18 of the Act as if such Private Investment Fund were a registered open-end investment company. With respect to all redemption requests made by a Lending Fund, each Private Investment Fund will comply with section 22(e) of the Act. CSIM, as investment adviser to a Private Investment Fund, with the approval of its board or other governing body, shall adopt procedures designed to ensure that the Private Investment Fund will comply with sections 17(a), (d), and (e), 18, and 22(e) of the Act. CSIM will also periodically review and update, as appropriate, such procedures and maintain books and records describing such procedures, as well as records required by rules 31a-1(b)(1), 31a-1(b)(2)(ii), and 31a-1(b)(9) under the Act. All books and records required to be maintained pursuant to this condition will be maintained and preserved for a period of not less than six years from the end of the fiscal year in which any transaction occurred, the first two years in an easily accessible place, and will be subject to examination by the Commission and the staff.

9. Each Investment Fund will use the amortized cost method of valuation, as defined in rule 2a-7, and will comply with rule 2a-7. Each Private Investment Fund will value its shares as of the close of business on each business day using the amortized cost method to determine its net asset value per share. Each Private Investment Fund will adopt the procedures described in rule 2a-7(c)(7), and CSIM will comply with these procedures and take any other actions as are required to be or may be taken pursuant to these procedures.

10. Each Lending Fund will purchase and redeem Shares of the Private Investment Funds as of the same time and at the same price, and will receive dividends and bear its proportionate share of expenses on the same basis, as other shareholders of the Private Investment Funds. A separate account will be established in the shareholder records of the Private Investment Funds for the account of each applicable Lending Fund.

11. The net asset value per share with respect to Shares of a Private Investment

Fund will be determined separately for each Private Investment Fund by dividing the value of the assets belonging to that Private Investment Fund, less the liabilities of that Private Investment Fund, by the number of Shares outstanding with respect to the Private Investment Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

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DEPARTMENT OF STATE

[Delegation of Authority No. 247]

Delegation to Responsibilities Under the Government Information Security Reform Act From the Deputy Secretary of State to the Chief Information Officer

By virtue of the authority vested in me by Delegation of Authority 245 dated 4/23/01, and in accordance with section 3534(a)(3) of the Government Information Security Reform Act (44 U.S.C. 3531 *et seq.*) (the "Act"), I hereby delegate to the Chief Information Officer the authority to administer all functions under Subchapter II of Chapter 35 of title 44, United States Code, including—

(A) Designating a senior agency information security official who shall report to the Chief Information Officer;

(B) Developing and maintaining an agencywide information security program as required by the Act;

(C) Ensuring that the agency effectively implements and maintains information security policies, procedures and control techniques;

(D) Training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities ; and

(E) Assisting senior agency officials concerning their responsibilities pursuant to the Act.

Notwithstanding the provisions of this delegation of authority, the Secretary of State, the Deputy Secretary of State, or the Under Secretary for Management may at any time exercise any function hereby delegated.

The functions hereby delegated to the Chief Information Officer may be redelegated in consultation with the Under Secretary for Management.

This delegation of authority shall be published in the **Federal Register**.