

KRAMER LEVIN NAFTALIS & FRANKEL LLP

November 4, 2010

Submitted Electronically

Ms. Elizabeth M. Murphy
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-9303

Re: Proposed Rulemaking Regarding Mutual Fund
Distribution Fees; Confirmations, File No. S7-15-10

Dear Ms. Murphy:

This comment letter is being submitted on behalf of the Independent Board Members of the Reich & Tang family of mutual funds in connection with proposed rulemaking regarding distribution fees, captioned Mutual Fund Distribution Fees; Confirmations (File No. S7-15-10). The Independent Board Members are particularly concerned about the probable negative effects the proposed rules will have on money market mutual funds participating in sweep programs. The Independent Board Members are also concerned about whether money market sweep programs can continue to be offered to customers of broker-dealers who desire this type of short-term investment opportunity. Accordingly, they believe that further study is required by the Securities and Exchange Commission (the "SEC" or the "Commission") before implementation of Rule 12b-2 as it may pertain to money market mutual funds participating in sweep programs.

Many broker-dealers make available to their customers shares of money market mutual funds which are used as investment vehicles for automatic sweep services that the broker-dealers offer to their customers ("Sweep Funds," and each a "Sweep Fund"). Broker-dealers implement and maintain systems that process daily "sweeps" of any uninvested cash balances in each of their customers' brokerage accounts into an interest-bearing account (e.g., shares of a money market mutual fund), if the broker-dealer's customer selects the "sweep" feature for his/her account. Broker-dealers do not receive sales commissions or other compensation from their customers directly linked to purchases or redemptions of Sweep Fund shares. The essential ingredient of the sweep relationship is that it exists for the convenience of the intermediary's customers, so that uninvested cash, typically held for short time periods, is invested in a secure, regulated investment vehicle, with access to immediate liquidity and the potential for income.

In addition to daily account reconciliation and tracking services, the broker-dealer must provide the same recordkeeping, shareholder services and administrative services it performs with respect to other types of mutual funds (sub-accounting, tax reporting, distribution of confirmations, prospectuses, annual and semi-annual reports and other regulatory documents, as well as responding to customer inquiries regarding their Sweep Fund positions). The fees for these services are paid either by the funds directly through shareholder service agreements, including Rule 12b-1 plans, or by other fund service providers, such as transfer agents, with the

charge included in the service provider's charges to the fund. These fees are demanded by broker-dealers because money market mutual funds do not charge front-end sales loads.

The Reich & Tang family of funds specializes in the investment of short-term liquid assets, primarily through money market mutual funds that are used by broker-dealers as investment vehicles for automatic sweep services. Currently, more than 250,000 brokerage firm customers, representing more than \$7 billion of assets, are linked to the Reich & Tang money market mutual funds through brokerage firm accounts.

Under current rules, the distribution fee charged by the Sweep Fund is not considered a sales load. If this fee were to be considered a distribution expense, then under the proposed amendments to Rule 6c-10 of the Investment Company Act, Sweep Funds would have to limit their current asset based sales charges (in excess of the 0.25% marketing and service fee) to the proposed ongoing sales charge cap of 6.25% on the cumulative amount of sales charges in any form that any investor pays for the duration of their investment.

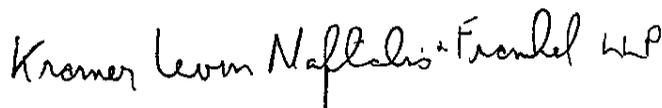
Sweep Funds are designed to provide a service to clients of broker-dealers and it is the broker-dealers who typically negotiate the costs for this service, not the Sweep Funds. Therefore, because Sweep Funds are really just a money market service provider for broker-dealers, the cost for this service should be left to the negotiation between the broker-dealers and the sponsor of the Sweep Funds. The purpose of the Sweep Fund arrangement is to permit customers' uninvested cash to be automatically invested, without the customer having to make an investment decision and engage in the individual transaction for what is normally a very short time frame for investment. Thus, the Sweep Fund arrangement is really an accommodation for the broker-dealer's customer, and is significantly different from the typical direct retail investor in a money market mutual fund.

Again, if these customer servicing arrangements borne by sweep vehicles were viewed as distribution-related, the ongoing sales charge cap would present an operational problem for Sweep Funds. In Sweep Fund arrangements, inflows and outflows vary daily, because broker-dealer customers' accounts change daily (as dividends are received, and investments made and exited, etc.). From the perspective of the Sweep Fund, the broker-dealer is the shareholder of record on the Fund's books and records, and the broker-dealer's account is an "omnibus" account. As the broker-dealers' "omnibus" account with the Sweep Fund reflects the aggregated transactions of the broker-dealers' customers for each day, the ongoing sales charge cap would be applied at that level, and quickly be reached. This does not reflect the expectations, however, of the Sweep Funds and of both the broker-dealers and their customers in structuring sweep relationships. At the same time, it will be operationally difficult and costly for Funds and for the customers to look through the "omnibus" account to track the ongoing sales charge on a sub-account basis at the level of actual beneficial user of the relationship, which is the broker-dealer customer. Either of these scenarios the Independent Board Members believe is untenable for the brokerage firms, and the Sweep Fund arrangement will not be viable, and customers of the broker-dealer will have to manage uninvested cash in other investment relationships, none of which are likely to offer the same degree of regulatory protection as money market mutual funds. Ultimately, the customers of the broker-dealer will lose the benefits of the sweep arrangement, which is the investment return from short-term cash balances in a format conducive to realizing economies of scale.

Just as the SEC and the financial community recognize the distinction between retail and institutional mutual fund shareholders, so must it recognize the differences between money market mutual funds that cater to retail and/or institutional investors and money market sweep funds that cater to 'Sweep Fund' shareholders - primarily institutional and "omnibus" investors - who seek to place their funds in a "cash equivalent" investment on a daily basis or for just a very limited number of days or period of time. Sweep Fund financial or fee arrangements are generally negotiated by sophisticated investors as a substitute for the front-end sales load. These arrangements benefit the Sweep Fund investor, have been applied consistently for many, many years and have accomplished their goal for money market fund shareholders on a cost-effective basis and with transparency or disclosure to the money market fund shareholder. The Independent Board Members believe that if the Commission were to analyze the current fee arrangements for Sweep Fund shareholders, from the investor's perspective, it would find, as they have found for the Reich & Tang money market mutual funds, that the use of fund assets to pay distribution-related expenses is, has been and will continue to be in the best interests of their shareholders.

The Independent Board Members believe further that as the Commission considers Rule 12b-1 reform, the Commission and the Staff must be mindful of the operational implications of its recommendations as they specifically apply to money market mutual funds that utilize a sweep arrangement in order to make certain that any reforms or recommendations do not have "an unintended negative impact on fund investors."¹ According to Andrew Donohue, "[t]he staff is seeking to develop a regulatory system that matches economic realities" The Independent Board Members have found that treating sweep money market mutual funds the same as all mutual funds does not match the economic realities that are and have been beneficial to their money market fund shareholders and investors.

Kramer Levin Naftalis & Frankel LLP, Counsel to
the Independent Board Members of the Reich &
Tang Family of Mutual Funds



cc:

The Honorable Mary L. Schapiro, Chairman
The Honorable Kathleen L. Casey, Commissioner
The Honorable Elisse B. Walter, Commissioner
The Honorable Luis A. Aguilar, Commissioner
The Honorable Troy A. Paredes, Commissioner

Andrew B. Donahue, Director, Division of Investment Management
Robert E. Plaze, Associate Director, Division of Investment Management

¹ Remarks of Andrew J. Donohue, Director, Division of Investment Management, U.S. Securities and Exchange Commission, *Keynote Address at the Practising Law Institute Investment Management Institute 2008* (Apr. 24, 2008).