



September 26, 2016

Mr. Brent J. Fields
Secretary
Securities and Exchange Commission
100 F St., NE
Washington, DC 20549-1090

Re: **Proposed Rule on Disclosure of Order Handling Information; File Number S7-14-16**

Dear Mr. Fields:

Charles Schwab & Co., Inc. (“Schwab”)¹ appreciates the opportunity to comment on the recently proposed rule to amend Rules 600 and 606 of Regulation National Market System under the Securities and Exchange Act of 1934 to require additional disclosures by broker-dealers to customers about the routing of their orders. The proposed rule is broken into two parts – one regarding disclosures for institutional orders and the other to update disclosures for retail orders. While the scope of our letter largely focuses on the portion of the rule pertaining to retail orders, reflecting the makeup of our clients, we also express concerns about how the rule proposes to define “institutional” orders in the first part of the proposal². In general, we are pleased that the Commission has put forward this proposal, as it enhances current disclosures that we already provide to the benefit of our customers. We believe, however, that the proposal

¹ Charles Schwab & Co., Inc. (member SIPC), is the broker-dealer affiliate of The Charles Schwab Corporation (NYSE: SCHW), a leading provider of financial services, with more than 330 offices and 10.0 million active brokerage accounts, 1.6 million corporate retirement plan participants, 1.1 million banking accounts, and \$2.71 trillion in client assets as of August 31, 2016. Through its operating subsidiaries, the company provides a full range of wealth management, securities brokerage, banking, money management, custody, and financial advisory services to individual investors and independent investment advisors. Its broker-dealer subsidiary and affiliates offer a complete range of investment services and products including an extensive selection of mutual funds; financial planning and investment advice; retirement plan and equity compensation plan services; referrals to independent fee-based investment advisors; and custodial, operational and trading support for independent, fee-based investment advisors through Schwab Advisor Services. Its banking subsidiary, Charles Schwab Bank (member FDIC and an Equal Housing Lender), provides banking and lending services and products. More information is available at www.schwab.com and www.aboutschwab.com.

² Page 50 of the proposed rule.

should be expanded to require additional disclosures regarding execution quality. We provide further comment about certain aspects of the proposal below.

Require Execution Quality Disclosure for Retail Orders

As stated above, Schwab is supportive of providing enhanced disclosure to retail customers about our order routing practices. Prior to this proposed rulemaking, Schwab had been working with many of our industry peers, through the coordination of the Financial Information Forum (“FIF”), on enhancing and standardizing disclosures in this area. Schwab already voluntarily publicly discloses data on the quality of trade executions that our customers receive and we believe this proposal would go much further in advancing the causes of transparency, competition, and informed investors if it required all firms serving retail customers to do likewise. While the proposed enhanced disclosures for retail customers regarding payment for order flow and profit-sharing arrangements would be a step in the right direction, a more positive outcome of this rulemaking would be realized if retail customers of all firms were required to receive enhanced standardized disclosures on payment for order flow and profit sharing arrangements *in conjunction with* harmonized disclosures on trade execution quality.

As mentioned above, Schwab already voluntarily discloses a number of important trade execution quality statistics, including Effective/Quoted Ratio, the percentage of orders that receive price improvement, the average amount of price improvement for each order, and the speed of execution. We take pride in the trade execution quality Schwab customers receive and continually look for ways to improve it, while always seeking to maintain a high ratio of price improvement to payment for order flow. Currently, our clients receive total price improvement on their orders that is approximately eight times what Schwab receives in payment for order flow arrangements on 606-eligible securities. As the director of the Commission’s Division of Trading and Markets, Steve Luparello, noted at the recent open meeting for this rule proposal, “Competition among execution venues, the introduction of new fee structures for execution services, and the rethinking of exchange models have led to changes in the handling of retail-sized orders, generally to the benefit of those orders.”³ Schwab agrees with this assessment, but we also believe that the competition Director Luparello speaks of would be enhanced, to the benefit of retail customers, if trade execution quality statistics were required to be disclosed by all firms serving retail customers.

As for the proposed enhanced disclosures for retail trades, we do not believe aggregate payment for order flow received is a meaningful number, as that number will vary widely based on the number of trades a firm has filled on behalf of its clients. Rule 606 already requires an overall *average* payment for order flow received per share to be calculated and disclosed for each venue. Further, the proposed rule would require a description of the terms of any payment for order flow and any profit-sharing arrangements. We believe the combination of the average in conjunction with a description of the terms would be more meaningful public disclosures than the aggregate funds received from each venue.

³ Quote taken from archived video on the Commission’s website at the following link: https://www.sec.gov/video/webcast-archive-player.shtml?document_id=071316openmeeting

One other related enhancement we would suggest to improve the proposal would be to implement a recent recommendation⁴ made by the Customer Issues Subcommittee of the Commission's Equity Market Structure Advisory Committee. In order to reflect changes in market structure since Rule 606 was initially adopted, the Subcommittee recommends that instead of dividing data on Rule 606 reports by listing markets, it should be separated into two buckets: "S&P 500" and "Other NMS equities." Schwab believes that by delineating in this way, more meaningful data will be available to retail customers, as S&P 500 stocks generally represent the largest market capitalization stocks. These stocks tend to have the most significant retail customer interest and therefore a different correlated execution quality level than lower volume issues. Furthermore, by utilizing this categorization, required disclosures would follow what is already being done on a voluntary basis through the FIF efforts to enhance and standardize disclosures.

Concerns with Proposed Institutional Order Definition

One of our primary concerns with the proposal is with its definition of institutional versus retail orders. Based on our experience, the proposed definition for an institutional order as one with an original market value of at least \$200,000 does not accurately reflect reality. In fact, we have retail orders that routinely breach this market value. Attempting to delineate between retail and institutional orders with an arbitrary number does not seem to be appropriate.

As an alternative to the proposed definition, Schwab suggests that the definition should be based off of "held" versus "not held" order flow, with "held" order flow defined as "retail" and "not held" order flow defined as "institutional". There are completely different technologies used, with differing processes for executing, over dissimilar timelines, and with vastly different customer expectations, when comparing held versus not-held orders. While not held, or institutional order flow, employs algorithms over longer periods of time to process orders, held, or retail order flow, needs access to immediate liquidity, with less regard for small differences in price. So again, we believe that delineating this way between retail and institutional orders makes much more sense than to impose an arbitrary number. As a small percentage of retail customers occasionally send not held orders, firms with only a *de minimis* amount of not held orders should be exempt from the new disclosure rules that are proposed for institutional orders, as to avoid capturing occasional retail activity within the institutional reporting regime.

⁴ See the bottom of page three of the pdf found at the following link: <https://www.sec.gov/spotlight/emsac/emsac-customer-issues-subcommittee-recomendation-072516.pdf>

Thank you for providing this opportunity to comment on the recently proposed order handling disclosure rules. As always, we stand ready to provide additional input on these and other issues, either in person or over the phone, if members of the Commission or its staff are interested in further discussion with us. I can be reached by phone at 202.638.3750 or by email at [REDACTED]. Thank you very much for your consideration of our views on these matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Brown". The signature is fluid and cursive, with the first name "Jeff" being more prominent than the last name "Brown".

Jeff Brown
Senior Vice President
Legislative and Regulatory Affairs
Charles Schwab & Co., Inc.

cc: The Honorable Mary Jo White
The Honorable Kara M. Stein
The Honorable Michael S. Piwowar

Stephen Luparello, Director
Division of Trading and Markets