

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES ACT OF 1933**  
**Release No. 9173 / January 11, 2011**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-14184**

**In the Matter of**

**Charles Schwab Investment  
Management and  
Charles Schwab & Co., Inc.**

**Respondents.**

**ORDER UNDER RULE 602(e) OF THE  
SECURITIES ACT OF 1933 GRANTING A  
WAIVER OF THE RULE 602(c)(3)  
DISQUALIFICATION PROVISION**

**I.**

Charles Schwab Investment Management (“CSIM”) and Charles Schwab & Co., Inc. (“CS&Co.”) (together “Respondents”) have submitted a letter, dated December 28, 2010, requesting a waiver of the Rule 602(c)(3) disqualification from the exemption from registration under Regulation E arising from Respondents’ settlement of an administrative proceeding commenced by the Commission.

**II.**

On January 11, 2011, pursuant to Respondents’ Offers of Settlement, the Commission issued an Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Sections 15(b) and 21C of the Securities Exchange Act of 1934, Sections 203(e) and 203(k) of the Investment Advisers Act of 1940, and Section 9(f) of the Investment Company Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”) against Respondents. Under the Order, the Commission found that Respondent CSIM willfully violated Sections 17(a)(2) and (3) of the Securities Act of 1933 (“Securities Act”); Sections 204A and 206(4) of the Investment Advisers Act of 1940 and Rule 206(4)-8 promulgated thereunder; and willfully aided and abetted and caused violations of Sections 13(a) and 34(b) of the Investment Company Act of 1940 (“Investment Company Act”). Under the Order, the Commission found that Respondent CS&Co. willfully violated Section 17(a)(2) and (3) of the Securities Act and Section 15(g) of the Securities Exchange Act of 1934, and willfully aided and abetted and caused violations of Section 34(b) of the Investment Company Act. The Commission censured Respondents, and ordered certain undertakings. The Commission also authorized staff to

file a district court action seeking payment of \$118,944,966 in disgorgement, prejudgment interest and civil money penalties, which amounts may be distributed to investors.

### **III.**

The Regulation E exemption is unavailable for the securities of small business investment company issuers or business development company issuers if, among other things, any investment adviser or underwriter for the securities to be offered is subject to an order of the Commission entered pursuant to Section 203(e) of the Investment Advisers Act of 1940. 17 C.F.R. § 230.602(c)(3). Rule 602(e) of the Securities Act provides, however, that the disqualification “shall not apply . . . if the Commission determines, upon a showing of good cause, that it is not necessary under the circumstances that the exemption be denied.” 17 C.F.R. § 230.602(e).

### **IV.**

Based upon the representations set forth in Respondents’ request, the Commission has determined that pursuant to Rule 602(e) under the Securities Act, a showing of good cause has been made that it is not necessary under the circumstances that the exemption be denied as a result of the Order.

Accordingly, **IT IS ORDERED**, pursuant to Rule 602(e) under the Securities Act, that a waiver from the application of the disqualification provision of Rule 602(c)(3) under the Securities Act resulting from the entry of the Order is hereby granted.

By the Commission.

Elizabeth M. Murphy  
Secretary