Applicants submit that the Portfolio Transfers are consistent with the general purposes of the Act because they do not give rise to the abuses that section 17(a) was designed to prevent, and, in fact, are consistent with the purposes underlying rule 17a–7.

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

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96–2404 Filed 2–5–96; 8:45 am]

**BILLING CODE 8010–01–M**

**[Investment Company Act Release No. 21726; 812–9888]**

## Schwab Capital Trust, et al.; Notice of Application

January 31, 1996.

**AGENCY:** Securities and Exchange Commission (''SEC'').

**ACTION:** Notice of Application for an Order under the Investment Company Act of 1940 (the ''Act'').

**APPLICANTS:** Schwab Capital Trust (the ''Trust''); Schwab Investments; The Charles Schwab Family of Funds; Charles Schwab Investment Management, Inc. (''CSIM''); and Charles Schwab & Co., Inc. (''Schwab'').

**RELEVANT ACT SECTIONS:** Order requested under section 6(c) of the Act from section 12(d)(1) of the Act, under sections 6(c) and 17(b) of the Act from section 17(a) of the Act, and pursuant to section 17(d) of the Act and rule 17d–1 thereunder.

**SUMMARY OF APPLICATION:** Applicants request an order that would permit the Trust to operate as a ''fund of funds'' and to acquire up to 100% of the voting shares of any acquired fund.

**FILING DATE:** The application was filed on December 14, 1995. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 26, 1996, 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 may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 101 Montgomery Street, San Francisco, California 94104.

**FOR FURTHER INFORMATION CONTACT:** Marianne H. Khawly, Staff Attorney, at (202) 942–0562, or Robert A. Robertson, 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 from the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust is registered as an open-end management investment company under the Act. Currently, the Trust consists of five separate investment portfolios: Asset Director®-High Growth Fund, Asset Director®-Balanced Growth Fund, and Asset Director®-Conservative Growth Fund (collectively, the ''Asset Director® Funds''); Schwab International Index Fund™; and Schwab Small-Cap Index Fund™.

2. Each Asset Director® Fund seeks to provide diversification among major asset categories (*e.g.*, stocks, bonds, and cash equivalents) and stock sub-categories (*e.g.*, large company stocks, small company stocks, and international stocks). All three Asset Director® Funds are designed to provide exposure to the growth potential of the stock market in varying degrees. A target mix and a defined range have been established for each asset category in each of the Asset Director® Funds. A target mix, but not a defined range, has been established for each stock sub-category.

3. CSIM is registered as an investment adviser under the Investment Advisers Act of 1940. CSIM is responsible for the overall management of the Asset Director® Funds' business affairs, subject to the authority of the Trust's board of trustees and officers. CSIM makes all portfolio securities selections, places all orders for the Asset Director® Funds' securities transactions, and has primary responsibility for the management of the Asset Director® Funds' investment portfolios. CSIM is a wholly-owned subsidiary of the Charles Schwab Corporation (''Schwab Corporation'') and is the investment adviser and administrator for the mutual funds in the SchwabFunds® family of mutual funds.

4. Schwab is registered as a broker-dealer and transfer agent under the Securities Exchange Act of 1934. Schwab also is a member of the National Association of Securities Dealers, Inc. (''NASD''). Schwab serves as the Asset Director® Funds' principal underwriter and transfer and shareholder servicing agent. Schwab is a wholly-owned subsidiary of Schwab Corporation.

5. Applicants propose a fund of funds arrangement whereby each Asset Director® Fund will invest in shares of portfolios of the following investment companies (the ''Underlying Portfolios''): Schwab Investments; The Charles Schwab Family of Funds; and the Trust. In the Trust's case, the Underlying Portfolios currently are proposed to consist of Schwab International Index Fund™ and Schwab Small-Cap Index Fund™. Investments also may be made in money market instruments for temporary defensive purposes and to maintain liquidity. In addition, any assets that are not invested in Underlying Portfolios shares will be invested directly in stocks, bonds, and other types of instruments, including money-market instruments. Applicants request that any relief granted pursuant to the application also apply to any open-end management investment company that currently or in the future is part of the same ''group of investment companies,'' as defined in rule 11a–3 under the Act, as the Trust (collectively, the ''Schwab Funds'').[1]

Applicants' Legal Analysis

1. Section 12(d)91)(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 any other acquired 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 sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired

[1] Rule 11a–3 under the Act defines ''group of investment companies'' as two or more companies that: (a) hold themselves out to investors as related companies for purposes of investment and investor services; and (b) that have a common investment adviser or principal underwriter. Although certain existing registered investment companies, or portfolios thereof, that are Schwab Funds do not presently intend to rely on the requested order, any such registered investment company, or portfolios thereof, would be covered by the order if they later proposed to enter into a fund of funds arrangement in accordance with the terms described in the application.

company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 6(c) of the Act provides that the SEC may exempt persons or transactions from any provision of the Act if such 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. Applicants request an order permitting the Asset Director® Funds to acquire shares of the Underlying Portfolios beyond the section 12(d)(1) limits.

3. The restrictions in section 12(d)(1) were intended to prevent certain abuses perceived to be associated with the pyramiding of investment companies, including: (a) unnecessary duplication of costs, *e.g.* sales loads, advisory fees, and administrative costs; (b) a lack of appropriate diversification; (c) undue influence by the fund holding company over its underlying funds; (d) the threat of large scale redemptions of the securities of the underlying investment companies; and (e) unnecessary complexity. For the following reasons, applicants believe that the proposed arrangement will not create these dangers and, therefore, that the requested relief is appropriate.

4. The proposed arrangement will not raise the fee layering concerns contemplated by section 12(d)(1). The proposed arrangement will not involve the layering of advisory fees since, before approving any advisory contract under section 15(a) of the Act, the board of trustees of the Trust, including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, will find that the advisory fees charged under the contract are based on services provided that are in addition to, rather than duplicative of, services provided under any Underlying Portfolio advisory contract. In addition, the proposed structure will not involve layering of sales charges. Any sales charges or service fees relating to the shares of an Asset Director® Fund will not exceed the limits set forth in Article III, section 26 of the Rules of Fair Practice of the NASD when aggregated with any sales charges or service fees that the Asset Director® Fund pays relating to Underlying Portfolio shares. The aggregate sales charges at both levels, therefore, will not exceed the limit that otherwise lawfully could be charged at any single level. Furthermore, the proposed arrangement will not involve the unnecessary duplication of administrative and other fees. Applicants expect that these expenses will be reduced at both levels under the proposed arrangement.

5. In addition, the proposed arrangement will provide true diversification benefits. Each Asset Director® Fund will pursue a different investment strategy by investing in Underlying Portfolios that also pursue distinct investment strategies. The proposed arrangement will be structured to minimize undue influence concerns. The Asset Director® Funds only will acquire shares of Underlying Portfolios that are Schwab Funds. Because CSIM is investment adviser to the Underlying Portfolios as well as to the Trust, a redemption from one Underlying Portfolio will simply lead to the investment of the proceeds in another Underlying Portfolio.

6. The proposed arrangement, furthermore, will be structured to minimize large scale redemption concerns. The Asset Director® Funds will be designed for intermediate and long-term investors. This will reduce the possibility of the Asset Director® Funds from being used as short-term investment vehicles and further protect the Asset Director® Funds and the Underlying Portfolios from unexpected large redemptions. The proposed arrangement will not be unnecessarily complex. No Underlying Portfolio will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

7. Section 17(a) of the Act makes it unlawful for an affiliated person of a registered investment company to sell securities to, or purchase securities from, the company. The Trust and the Underlying Portfolios may be considered affiliated persons because they share common officers and/or directors/trustees. An Underlying Portfolio's issuance of its shares to the Trust may be considered a sale prohibited by section 17(a).

8. Section 17(b) of the Act provides that the SEC shall exempt a proposed transaction from section 17(a) if evidence establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general provisions of the Act. Applicants request an exemption under sections 6(c) and 17(b) to allow the above transactions.

9. Applicants believe that the proposed transactions meet the standards of sections 6(c) and 17(b). The consideration paid for the sale and redemption of shares of Underlying Portfolios will be based on the net asset value of the Underlying Portfolios, subject to applicable sales charges. The Trust's purchase and sale of shares of the Underlying Portfolios is consistent with the Trust's policy, as set forth in the Trust's registration statements. Applicants also believe that the proposed transactions are consistent with the general purposes of the Act.

10. Section 17(d) of the Act and rule 17d–1 thereunder prohibit an affiliated person of a registered investment company, acting as principal, from effecting any transaction in which such investment company is a joint, or joint and several, participant with such person unless the SEC has issued an order approving the arrangement. Applicants understand that the proposed arrangement may provide benefits for both the Asset Director® Funds and the Underlying Portfolios, including increased diversification, more efficient portfolios management, a larger asset base, and reduced expenses. Therefore, for the reasons discussed above, applicants believe that the proposed arrangement is consistent with the provisions, policies, and purposes of the Act. Furthermore, the Asset Director® Funds and the Underlying Portfolios will not participate in the proposed arrangement on a basis that is different from or less advantageous than the participants that are not investment companies.

## Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. Each Asset Director® Fund and each Underlying Portfolio will be part of the same ''group of investment companies,'' as defined in rule 11a–3 under the Act.

2. No Underlying Portfolio will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

3. A majority of the trustees of the Trust will not be ''interested persons,'' as defined in section 2(a)(19) of the Act.

4. Any sales charges or service fees charged to the shares of an Asset Director® Fund, when aggregated with any sales charges or service fees paid by the Asset Director® Fund relating to the securities of the respective Underlying Portfolio, shall not exceed the limits set forth in Article III, section 26, of the NASD's Rules of Fair Practice.

5. Before approving any advisory contract under section 15 of the Act, the board of trustees of the Trust, including

a majority of the trustees or directors who are not ''interested persons,'' as defined in section 2(a)(19), will find that advisory fees charged under the contract are based on services provided that are in addition to, rather than duplicative of, services provided under any Underlying Portfolio advisory contract. The finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the Asset Director® Fund.

6. Applicants agree to provide the following information, in electronic format, to the Chief Financial Analyst of the SEC's Division of Investment Management: monthly average total assets of each Asset Director® Fund and each underlying Portfolio; monthly purchases and redemptions (other than by exchange) for each Asset Director® Fund and each Underlying Portfolio; monthly exchanges into and out of each Asset Director® Fund and each Underlying Portfolio; month-end allocations of each Asset Director® Fund's assets among the Underlying Portfolios; annual expense ratios for each Asset Director® Fund and each Underlying Portfolio; and a description of any vote taken by the shareholders of any Underlying Portfolio, including a statement of the percentage of votes cast for and against the proposal by each Asset Director® Fund and by the other shareholders of the Underlying Portfolio. Such information will be provided as soon as reasonably practicable following each fiscal year-end of the Asset Director Fund® (unless the Chief Financial Analyst shall notify applicants in writing that such information need no longer be submitted).

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

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96–2462 Filed 2–5–96; 8:45 am]

**BILLING CODE 8010–01–M**

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**Release Nos. 33–7262; 34–36792**

**[File No. 265–20]**

## Advisory Committee on the Capital Formation and Regulatory Processes; Meeting

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Notice of Meeting.

**SUMMARY:** This is to give notice that the Securities and Exchange Commission Advisory Committee on the Capital Formation and Regulatory Processes will meet on February 22, 1996 in room 1C30 at the Commission's main offices, 450 Fifth Street, NW., Washington, DC, beginning at 10:00 a.m. The meeting will be open to the public, and the public is invited to submit written comments to the Committee.

**ADDRESSES:** Written comments should be submitted in triplicate and should refer to File No. 265–20. Comments should be submitted to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

**FOR FURTHER INFORMATION CONTACT:** David A. Sirignano, Committee Staff Director, at 202–942–2870; Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

**SUPPLEMENTARY INFORMATION:** In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 10a, notice is hereby given that the Committee will meet on February 22, 1996 in room 1C30 at the Commission's main offices, 450 Fifth Street, NW., Washington, DC, beginning at 10:00 a.m. The meeting will be open to the public.

The Committee was formed in February 1995, and its responsibilities include advising the Commission regarding the informational needs of investors and the regulatory costs imposed on the U.S. securities markets. The purpose of this meeting will be to discuss the progress of the Committee's work and to discuss, and possibly vote on, the Committee's report.

Dated: January 31, 1996.

Jonathan G. Katz,

*Secretary.*

[FR Doc. 96–2465 Filed 2–5–96; 8:45 am]

**BILLING CODE 8010–01–M**

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**[Release No. 34–36788; International Series Release No. 924 File No. SR–GSCC–95–05]**

## Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Permitting Entities Established or Organized in a Foreign Country To Become Members of GSCC's Netting System

January 30, 1996.

On October 6, 1995, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–GSCC–95–05) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] On October 30, 1995, GSCC filed an amendment to the proposed rule change.[2] Notice of the proposal was published in the Federal Register on December 11, 1995.[3] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

### I. Description

Currently, under GSCC's rules an entity that is organized or established under the laws of a country other than the United States (''foreign entity'') is eligible to apply to become a member of GSCC's comparison system if it has demonstrated to GSCC that its business and capabilities are such that it could reasonably expect material benefit from direct access to GSCC's services. Prior to this rule change, a foreign entity was not eligible for any of GSCC's eleven enumerated categories of netting system membership.[4] The proposed rule change permits foreign entities that are regulated in a manner comparable to domestic entities eligible for GSCC membership to become members of GSCC's netting system. The rule change also establishes application and continuing membership requirements for foreign entities for both the comparison and netting systems.

#### *1. Legal Considerations*

To address the particular jurisdictional concerns raised by the admission of foreign entities to netting system membership, GSCC will require foreign netting system applicants to enter into a special netting member agreement (''Agreement'') and to submit an opinion of foreign counsel (''Opinion''). The Agreement requires the foreign netting system applicant to adhere to GSCC's rules and provides that the Agreement shall be governed by and construed in accordance with the laws of the State of New York. The Opinion must provide that the execution by the foreign entity of the

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] Letter from Jeffrey F. Ingber, General Counsel and Secretary, GSCC, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation, Commission (October 26, 1995).

[3] Securities Exchange Act Release No. 36544 (December 1, 1995), 60 FR 63555.

[4] Foreign entities have been among the more significant participants in the government securities marketplace and trade actively with many current netting members. GSCC has maintained a list of ''grandfathered'' entities which are non-netting system members that historically have done business with GSCC's interdealer netting members. Business done by the interdealer broker netting members with grandfathered entities is treated by GSCC as business done with an actual netting member. Six of the seven firms on GSCC's list of grandfathered entities (Daiwa Europe Ltd.; Nikko Europe PLC; The Nikko Securities Co., Ltd. Tokyo; Nomura International PLC, London; Nomura International Inc., Tokyo; and Nomura Securities Co., Ltd. (Tokyo) are foreign entities.