

assert that the worker separations are due to Invista's shift in production to Mexico.

On March 27, 2008, the USCIT granted the Department's motion for voluntary remand and directed the Department to conduct further investigation to determine whether workers of Invista are eligible to apply for TAA and ATAA.

On June 2, 2008, the Department issued a Notice of Negative Determination on Remand based on the finding that there was no causal nexus between the worker separations and an earlier shift in production to Mexico of articles like or directly competitive with nylon fiber produced at Invista. SAR 35. The Department's Notice of determination was published in the **Federal Register** on June 10, 2008 (73 FR 32739). SAR 42.

On June 18, 2009, the USCIT ordered the Department to conduct further investigation to determine whether workers of Invista are eligible to apply for TAA and ATAA.

The group eligibility requirements for directly-impacted (primary) workers under Section 222(a) of the Trade Act of 1974, as amended, can be satisfied in either of two ways:

I. Section (a)(2)(A)—all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B)—both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles is a beneficiary country under the Andean Trade

Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

During the second remand investigation, the Department obtained additional information regarding Invista's shift in production of nylon fiber to Mexico, Invista's business decisions related to the post-shift reorganization, and the subsequent worker separations at Invista. SAR 67–71.

Following a careful review of the information obtained during its investigations, the Department determined that a significant portion or number of workers at Invista was separated and that there was a shift in production to Mexico of articles like or directly competitive with nylon fiber produced at Invista. Therefore, the Department determines that the group eligibility requirements under Section 222(a)(2)(B) the Trade Act of 1974, as amended, have been met.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department herein presents the results of its investigation regarding certification of eligibility to apply for ATAA.

The Department has determined in this case that the group eligibility requirements of Section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

#### Conclusion

After careful review of the facts generated through the first and second remand investigations, I determine that a shift in production by Invista to Mexico of articles like or directly competitive to nylon fiber produced at Invista contributed to the total or partial separation of a significant number or proportion of workers at Invista.

In accordance with the provisions of the Act, I make the following certification:

All workers of Invista, S.A.R.L, Nylon Apparel Filament Fibers Group, A Subsidiary of Koch Industries, Inc., Chattanooga, Tennessee, who became totally or partially separated from employment on or after August 21, 2006, through two years from the issuance of this revised determination are eligible to apply for Trade Adjustment Assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for

alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 8th day of September 2009.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## NATIONAL SCIENCE FOUNDATION

### Notice of permit applications received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

**AGENCY:** National Science Foundation.

**ACTION:** Notice of permit applications received under the Antarctic Conservation Act of 1978, Public Law 95–541.

**SUMMARY:** The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

**DATES:** Interested parties are invited to submit written data, comments, or views with respect to this permit application by November 4, 2009. This application may be inspected by interested parties at the Permit Office, address below.

**ADDRESSES:** Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

**FOR FURTHER INFORMATION CONTACT:**

Nadene G. Kennedy at the above address or (703) 292–7405.

**SUPPLEMENTARY INFORMATION:** The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

1. *Applicant:* Permit Application No. 2010–017, Juan M. Lopez-Bautista, Department of Biological Sciences, The

University of Alabama, 425 Scientific Collections Bldg., Tuscaloosa, AL 35487-0345.

#### *Activity for Which Permit Is Requested*

Take. The applicant plans to collect 3 samples of *Prasiola crispa*, a terrestrial alga widespread in Antarctica. The samples are required for studies of molecular systematics of the order *Prasiolales*. Part will be used for DNA extraction and the rest of the samples will be deposited as voucher specimens in the herbarium of the University of Alabama. The DNA sample will be used for PCR and DNA sequencing.

*Location:* Palmer Station area, Anvers Island.

*Dates:* December 1, 2009 to July 31, 2010.

**Nadene G. Kennedy,**

*Permit Officer, Office of Polar Programs.*

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## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 28933; File No. 812-13628]

### Charles Schwab Investment Management, Inc., et al.; Notice of Application

September 28, 2009.

**AGENCY:** Securities and Exchange Commission (“Commission”).

**ACTION:** Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the “Act”) for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(j) of the Act for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

**SUMMARY OF APPLICATION:** Applicants request an order that would permit (a) certain open-end management investment companies and their series to issue shares (“Shares”) that can be redeemed only in large aggregations (“Creation Units”); (b) secondary market transactions in Shares to occur at negotiated prices; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation

Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares.

**APPLICANTS:** Schwab Strategic Trust (“Trust”) and Charles Schwab Investment Management, Inc. (“Adviser”).

**FILING DATES:** The application was filed on January 30, 2009, and amended on June 30, 2009, and September 25, 2009.

**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 October 22, 2009, 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, 100 F Street, NE., Washington, DC 20549-1090; Applicants, c/o Charles Schwab Investment Management, Inc., 101 Montgomery Street, SF120 KNY-14-101, San Francisco, CA 94104.

**FOR FURTHER INFORMATION CONTACT:** Emerson S. Davis, Sr., Senior Counsel at (202) 551-6868, or Julia Kim Gilmer, Branch Chief, at (202) 551-6821 (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 via the Commission’s Web site by searching for the file number, or an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

#### Applicants’ Representations

1. The Trust is registered as an open-end management investment company that will offer multiple series and is organized as a Delaware statutory trust. The Trust will initially offer Shares of eight series (the “Initial Funds”).<sup>1</sup>

<sup>1</sup> The Initial Funds are the: Schwab U.S. Broad Market ETF™, Schwab U.S. Large-Cap ETF™, Schwab U.S. Large-Cap Growth ETF™, Schwab U.S. Large-Cap Value ETF™, Schwab U.S. Small-

Applicants request that the order apply to any future series of the Trust or of other open-end management companies, advised by the Adviser or an entity controlling, controlled by or under common control with the Adviser, that comply with the terms and conditions of this application whose performance will closely correspond to the price and yield performance of securities indices (collectively with the Initial Funds, the “Funds”).<sup>2</sup>

2. The Adviser or an entity controlling, controlled by or under common control with the Adviser will serve as the investment adviser to the Funds. The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940, as amended (the “Advisers Act”). In the future, the Adviser may enter into sub-advisory agreements with one or more additional investment advisers to act as subadvisers to Funds (“Subadvisers”). Any Subadviser will be registered under the Advisers Act. A broker-dealer registered under the Securities Exchange Act of 1934 (the “Exchange Act”) will act as distributor and the principal underwriter of the Funds (a “Distributor”). The Distributor will not be affiliated with the Adviser or a national securities exchange as defined in section 2(a)(26) of the Act (“Exchange”).

3. Each Fund will consist of a portfolio of securities and other instruments (“Portfolio Securities”) selected to correspond to the price and yield performance of a specified securities index (each securities index is an “Underlying Index”).<sup>3</sup> Certain of the Funds may invest in equity securities or fixed income securities traded in foreign markets and seek investment results that closely correspond to the price and yield performance of Underlying Indices whose component securities include

Cap ETF™ (collectively, the “Domestic Initial Funds”), Schwab International Equity ETF™, Schwab International Small-Cap Equity ETF™ and Schwab Emerging Markets Equity ETF™.

<sup>2</sup> All entities that intend to rely on the order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application. An Investing Fund (as defined below) may rely on the order only to invest in the Funds and not in any other registered investment company.

<sup>3</sup> Applicants represent that each Fund will invest at least 80% of its total assets in the component securities that comprise its Underlying Index (“Component Securities”) and depositary receipts representing such securities. “Depositary Receipts” will typically be American Depositary Receipts, but may also include Global Depositary Receipts and European Depositary Receipts. Each Fund also may invest up to 20% of its assets in futures, options and swap contracts, cash and cash equivalents, as well as in stocks not included in its Underlying Index, but which the Adviser or Subadviser believes will help the Fund track its Underlying Index.