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September 26, 2012

Honorable Chairman Mary Shapiro
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Members of SEC Investor Advisory Committee

RE: President's Working Group Report on Money Market Fund Reform (File No. 4-619) and Request for Immediate Action

For Discussion at the Investor Advisory Committee September 28, 2012

Dear Chairwoman Shapiro and Investor Advisory Committee:

The Derivative Project, the only independent retirement investor advocacy organization in the United States, appreciates the opportunity to submit these comments to the Securities and Exchange Commission and the SEC Investor Advisory Committee concerning the recent decision to delay a vote on requiring money market funds to abandon the stable $1.00 net asset value (NAV) in favor of a floating value or increasing capital requirements due to systemic risk posed by a preponderance of assets held in money market funds that are part of the "Shadow Banking System" as defined by our nation's Federal Reserve System.

The Derivative Project agrees with Chairman Shapiro and the Federal Reserve Bank of New York, that the evolving role of money market funds in our short-term capital markets now poses significant systemic risk, due to the "Shadow Banking System". A controlled plan for moving these capital flows back into the traditional commercial banking system must be analyzed by both the Securities and

Exchange Commission, the Financial Stability Oversight Council and the Federal Reserve Bank.

Money market mutual funds are an obsolete product in the current interest rate environment, now placing our nation's retirement savings at risk. These risks, to retirement investors, can easily be avoided and must be avoided, immediately.

While the study on how best to control the systemic risk that is inherent in the non-transparent money market mutual fund (MMF) industry is being conducted, it is imperative that our nation's retirement savings be **removed immediately** from all money market mutual funds, carrying systemic risk and moved to FDIC-insured sweep options. The yield will be greater and the risk will be less for the retirement investor. The representation by the Fund industry that these MMF's are "safe" and "liquid" is a breach of existing securities' laws, given that the Federal Reserve Bank of New York has established they do pose significant systemic risk.

It is abundantly clear our nation's capital markets have been manipulated to create a product that delivers maximum return to the packagers of the "product", while returning no incremental gain to the retirement investor, with very high risk, that is completely avoidable given currently available alternatives that offer a comparable or higher return.

Money market mutual funds' "liquidity" and "safety" parameters are being misrepresented to retirement investors, in a preponderance of Prospectus and advertising materials, a fundamental breach of the Investment Company Act of 1940 and the Investment Advisers Act of 1940. SEC registered investment advisers are encouraging retirement investors to move money into these funds, since it is solely in their interest, not that of the retirement saver. This also is a fiduciary breach of the Investment Advisers Act of 1940.

1. The yield on money market mutual fund retirement accounts, such as Charles Schwab's Retirement Advantage, SWIXX, is less than placing the retirement saver's assets in a bank certificate deposit, if objective is longer than 30 days.

2. The systemic risk is far greater for the retirement investor in money market mutual funds, than in a FDIC sweep account. Here is an example of a viable Sweep account at a major retirement investor, Fidelity -- "Cash Balance in the FDIC-Insured Deposit Sweep is swept to an FDIC-Insured interest-bearing account at a Program Bank. The deposit at the Program Bank is not covered by SIPC. The deposit is eligible for FDIC insurance subject to FDIC insurance coverage limits. All assets of the account holder at the depository institution will generally be counted toward the aggregate limit."

In addition to sweep accounts, retirement savers at 401k's and 403B's should be allowed the option to invest directly in an FDIC bank CD in the maturity of their choice or in U.S. Treasury securities, at Treasury Direct. Employers may hire retired commercial bankers, acting on a pro bono basis, to train employees how to invest their money directly in U.S, government notes, bills and bonds and certain agencies and FDIC insured CD's. The Derivative Project would be pleased to lead this initiative, in conjunction with the Plan Providers and Department of Labor and SEC.

In sum, there is absolutely no reason why a retirement investor should be charged a penny to invest in U.S. government Bills and Notes or FDIC insured CD's when online options are abundantly available. In this low interest rate environment, which is anticipated to endure until 2015, according to the Federal Reserve's latest report, it is incomprehensible that the SEC and Department of Labor would continue to allow mutual fund companies to take retirement investor's savings, while delivering no viable product or return. The SEC and Department of Labor cannot stand by and allow retirement funds to be placed in products with systemic risk, as acknowledged by the Federal Reserve Bank of New York, in its shadow banking report of April 2012, when there are viable options for this savings, that provide higher returns and no systemic risk.

Money Market Funds Are No Longer A Viable Short Term Saving Alternative

Money market mutual funds were historically a viable safe, alternative for short-term savings, but this product has been rendered obsolete by a low interest rate environment that does not produce sufficient returns for mutual fund companies to recoup their costs. Further, the money market mutual fund companies have

stuffed these money market mutual funds with assets that do not belong there, such as Charles's Schwab's investment in Whistle jacket, a Structured Investment Vehicle that went bankrupt, while simultaneously representing to retirement investors, their savings in this money market were only invested in high quality Tier I and Tier II instruments.

The fund managers are no longer fiduciaries and are strictly placing their profit model over the interests of the retirement saver, while increasing the retirement's saver's risk and providing no incremental return on investment.

There are two principal reasons why retirement investors can no longer be allowed to invest in money market mutual funds:

1. **The Costs of Packaging the Product Exceed the Return to the Retirement Investor – The Product is Obsolete and "Voluntary Recapture" Programs must be Implemented for every Retirement Investor to return fees taken while a firm breached its fiduciary duty and misrepresented the risk in the money market mutual fund**

   Commercial paper, banker's acceptances and other short-term liquid assets provided sufficient returns historically for a money market mutual fund to invest in such assets, on an institutional basis, with minimal costs and pass on higher returns to money market mutual fund investors. Mutual funds could recoup their costs and make a profit.

   This is no longer the case. Returns on short-term assets are so low that money market mutual funds can no longer make a profit on traditional short-term money market assets, thus they have employed "voluntary recapture" programs to take profits away from retirement investors as soon as money market rates rise, a liability for every retirement savers' future earnings stream.

   Mandatory recapture programs should be put in place for the benefit of retirement investors for their lost income from breach of fiduciary duty, by money market mutual fund companies, since the advent of any "voluntary recapture program" and since the Federal Reserve stated excessive systemic risk exists in money market mutual funds, but these Fund companies

breached their fiduciary duty and continued to place retirement assets in these funds, in their interest, despite other viable alternatives for the retirement investor.

2. **The Risks are No Longer Measurable and Cannot be Construed as "Safe"**

Since the traditional money market mutual fund has been rendered obsolete by the current interest rate environment, the bulk of assets held by money market mutual funds are variable interest entities, as described by the *Financial Times* in plain English in a 2008 article:

"VIE is an accounting term that covers a multitude of activities in almost any kind of special purpose vehicle - from conduits and structured investment vehicles (SIVs) to individual CDOs themselves. The term VIE refers to the way in which a bank's economic exposure to a vehicle can change, which is key to whether it can be kept off-balance sheet."

Federal Reserve Opinion on VIE's

According to an April 2012 report on Shadow Banking Regulation By Tobias Adrian and Adam B. Ashcraft, Federal Reserve Bank of New York Staff Reports, no. 559

What is a Shadow Bank? Here is the definition by the Federal Reserve Bank of New York in this report:

"The shadow banking system is a web of specialized financial institutions that channel funding from savers to investors through a range of securitization and secured funding techniques. While shadow banks conduct credit and maturity transformation similar to traditional banks, shadow banks do so without the direct and explicit public sources of liquidity and tail risk insurance via the Federal Reserve's discount window and the Federal Deposit Insurance Corporation (FDIC) insurance. Shadow banks are therefore inherently fragile, not unlike the commercial banking system prior to the creation of the public safety net."

Here is the conclusion of the Federal Reserve Bank of New York's Staff report:

"The dilemma of the current regulatory reform efforts is that the motivation for shadow banking has likely become even stronger as the gap between capital and liquidity requirements on traditional institutions and non-regulated institutions has increased. The objective of reform should be to reduce the risks associated with shadow maturity transformation through more appropriate, properly priced and transparent backstops—credible and robust credit and liquidity "puts." Regulation has done some good, but more work needs to be done to prevent shadow credit intermediation from continuing to be a source of systemic concern."

Examination of Charles Schwab Retirement Savers Advantage Money Market Mutual Fund (SWIXX) in the context of Risk and Return for the Retirement Saver

SWIXX Objective

"The investment seeks the highest current income consistent with stability of capital and liquidity. The fund invests in high-quality short-term money market investments issued by U.S. and foreign issuers, such as: commercial paper, including asset-backed commercial paper; promissory notes; certificates of deposit and time deposits; variable- and floating-rate debt securities; bank notes and bankers' acceptances; repurchase agreements; obligations that are issued by the U.S. government, its agencies or instrumentalities, including obligations that are not guaranteed by the U.S. Treasury."

Misrepresentation Number One by Charles Schwab

Due to the systemic risk created by VIE's, this money market mutual fund is neither stable nor liquid. The borrower behind the VIE is not Tier 1, Tier 2 or Tier 3. They are high risk. Since the risks are off-balance sheet, non-consolidated, it is next to impossible for the retirement investor to assess the potential systemic risk of this product.

Misrepresentation Number Two by Charles Schwab

The fund is not seeking the highest current income consistent with stability of capital. The highest current income, that is the most stable, for the retirement investor is currently FDIC sweep options, that invest exclusively in FDIC insured CD's, since the administrative costs for this product are far less than those associated with packaging VIE's and are far less risky. Further, funds such as Charles Schwab's have determined their profits are more important than a safe and "highest return" to the retirement investor through their "voluntary recapture" program. This is a fundamental breach of the Investment Advisers Act of 1940 and Investment Company Act of 1940.

Here is an excerpt from Schwab's SWIXX prospectus:

"Voluntary Expense Waiver/Reimbursement

In addition to the contractual expense limitation agreements noted above, Schwab and the investment adviser also may waive and/or reimburse expenses to the extent necessary to maintain a positive net yield for the fund. Schwab and the investment adviser may recapture from the fund any of these expenses or fees they have waived and/or reimbursed until the third anniversary of the end of the fiscal year in which such waiver and/or reimbursement occurs, subject to certain limitations. The reimbursement payments by the fund to Schwab and/or the investment adviser are considered "non-routine expenses" and are not subject to any net operating expense limitations in effect at the time of such payment. This recapture could negatively affect the fund's future yield. There were no prior year amounts recaptured. As of June 30, 2012, the balance of recoupable expenses is as follows:

Expiration Date

December 31, 2012 - $26,653,803

December 31, 2013 - $47,297,540

December 31, 2014 - $59,017,389

December 31, 2015 - $30,733,891

Total $163,702,623"

Who are the SEC Registered Investment Advisers that are Placing Retirement Assets in a Fund that has greater risk and less return than other less risky options available to retirement savers? Should they be investigated for breach of fiduciary duty under the Investment Adviser's Act of 1940?

As of its June 30, 2012 report to the SEC, this fund (SWIXX) held assets of $12,930,125,813.20.

The seven-day gross yield is " Item 17. 7-day gross yield 0.25%" and the seven day net yield to investors is 7-day net yield, as calculated under Item 26(a)(1) of Form N-1A 0.01%"

SWIXX assets are all predominantly variable rate demand notes, guaranteed by banks, many are guaranteed by U.S. Bank.

At June 30, 2012, U.S. Bank stated in its SEC quarterly filing:

"While the Company believes potential losses from these investments are remote, the Company's maximum exposure to loss from these unconsolidated VIEs was approximately $5.1 billion at June 30, 2012, compared with $4.8 billion at December 31, 2011."

U.S. Bank's unconsolidated exposure and potential losses are in the billions and increasing. However, this exposure pales in comparison to the non-traditional commercial banks, as reported by the *Financial Times i*n 2008:

"Of the major Wall Street brokerages, Goldman Sachs lists $62.1bn in total exposure in unconsolidated VIEs, Morgan Stanley sits on $37.7bn, Bear Stearns clocks in at $11.5bn, while Merrill Lynch has $6.5bn, says Credit Sights. The data is drawn from the most recent company reports says Credit Sights.

Disclosure by the banks of maximum exposure to loss from their VIEs is much lower with Goldman around $26bn, $16bn at Morgan Stanley, $9bn at Merrill and $100m at Bear, said Credit Sights.

However, the firm says “we continue to question whether maximum exposure numbers accurately capture the entire risk associated with VIE assets.”

Based on recent filings, Credit Sights says Citigroup has roughly $84bn in total CDOs in its unconsolidated VIEs, while Bank of America has disclosed $13.6bn in VIE exposure.”

There is Significant Risk for Retirement Investors of which the money market mutual funds, such as Charles Schwab’s, are not disclosing. Retirement savings do not belong in these Funds, until the non-transparent entities are removed and the systemic risk is eliminated.

Here is the summary from the New York Federal Reserve report on Shadow Banking concerning the inability of money market mutual funds to adequately understand the risks inherent in their investment:

“Investors in the shadow banking system---such as owners of money market shares, asset backed commercial paper, or repo---shared a lack of understanding about the creditworthiness of underlying collateral. The search for yield by investors without proper regard or pricing for the risk inherent in the underlying collateral is a common theme in shadow banking. The long intermediation chains inherent in shadow banking lend themselves to this—they obscure information to investors about the underlying creditworthiness of collateral. Like a game of telephone where information is destroyed in every step, the transformation of loans into securities, securities into repo contracts, and repo contracts into private money makes it quite difficult for investors to understand the ultimate risk of their exposure. As a clear example, the operating cash for a Florida local government investment pool was invested in commercial paper that was sold by structured investment vehicles, which in turn held securities backed by subprime mortgages, such as collateralized debt obligations (CDOs). When the commercial paper defaulted and the operating cash of local governments was frozen following a run by investors in November 2007. Moreover, it is important to understand that access to official liquidity (without compensating controls) would only worsen this

problem by making investors even less risk-sensitive, in the same way that deposit insurance without capital regulation creates well-known incentives for excessive risk-taking and leverage in banking. The challenge for regulators is to create rules that require that the provision of liquidity to shadow markets is adequately risk-sensitive."

Retirement investors are not "searching for yield" in their money market mutual funds, nor do they seek to have their retirement savings at risk in non-transparent entities. Retirement savers lost over $2 trillion dollars in their retirement savings since mutual fund companies refused to protect them against the risk from non-collateralized credit default swaps. They not only lost their life savings, but also were forced to provide 100 percent on the dollar to make good AIG's speculative positions to counterparties that did not manage their counter party credit risk with AIG. Retirement investors will never be put in that position again. Money market mutual fund companies are clearly putting retirement investors in that position, once again, and they demand the SEC, Department of Labor and Federal Reserve provide the safe and liquid alternatives that are currently available through the traditional commercial banking sector and Treasury Direct.

SEC registered investment advisers are placing retirement assets in these Funds and mis-representing to the retirement investor that their assets are "liquid" and providing the highest income." Retirement investors are currently losing return due to the high expense structure of these funds. They are only in these funds because:

1. The SEC has allowed the mutual fund firms to misrepresent the amount of risk and return in the objective of the fund to continue despite the obsolescence of the product. This is a breach of securities laws.

2. The Department of Labor has allowed 401k's, 403B's and other "employee-captive" programs to push money market mutual funds that offer little to no return with significant systemic risk. Employees in many instances have no other alternative, despite good readily available alternatives, with less risk and higher return. This is a breach of ERISA fiduciary rules and the Investment Adviser's Act of 1940.

3. On March Charles Schwab met with Chairman Shapiro:

To: File No. 4-619

MEMORANDUM

From: Jennifer B. McHugh Senior Advisor to the Chairman

Date: March 8, 2012 Re: Meeting with Representatives from Charles Schwab

On March 8, 2012, representatives from Charles Schwab met with the following SEC representatives: Mary L. Schapiro, Chairman; Ricardo R. Delfin, Special Counsel to the Chairman; and Jennifer B. McHugh, Senior Advisor to the Chairman.

The representatives from Charles Schwab discussed **the impact on investors** of potential structural money market fund reform, particularly with respect to money market funds offered as "sweep" vehicles.

Attending from Charles Schwab were:

- Marie Chandoha, President, Charles Schwab Investment Management
- Jeff Brown, Senior Vice President, Legislative and Regulatory Affairs, Charles Schwab & Co., Inc.
- Michael Townsend, Vice President, Legislative and Regulatory Affairs, Charles Schwab & Co., Inc. Misrepresentation form Investment Industry

Charles Schwab implied to the SEC there was no other alternative for investors for a "sweep" vehicle. This is misrepresentation. There are other valid alternatives for retirement investors, FDIC-insured sweep accounts. These can be used for retirement investors until there is a return to a more normal historical yield curve and VIE systemic risk is transparent and under control.

Money Market Funds are Not Transparent

Charles Schwab stated in a May 31, 2012 comment to the SEC on money market reform:

"There is one more important distinction between money market funds and banks: money market funds are not guaranteed, while bank deposits are federally insured up to $250,000. Money market funds are not guaranteed ***because the risks are clearly disclosed to investors*** and because of the regulatory structure in which they operate, which limits risk and ensures that funds are highly resistant to market volatility."

As an individual retirement investor I can attest that the risks ***are not clearly disclosed***, particularly with asset -backed paper, one cannot determine the underlying assets. Most individual investors, may understand commercial paper and bankers' acceptances, but did not historically have to pay a fee to have access to all the CUSIP's of the securitized assets. Traditionally, the individual investor could analyze the credit risk of the Tier I commercial banks' Eurodollar time deposits or banker's acceptances and were comfortable with the rating services' analysis and ratings of commercial paper. That is no longer the case, as the bulk of assets are VIE's in many of the retirement funds, with no ratings are retirement investor can count on and no ability to personally do the requisite due diligence to assess the credit and systemic risk.

As a former commercial banker, I can attest that the systemic risks are buried and substantial from the unconsolidated VIE's, certain repurchase agreements and that as the Reserve Fund "breaking the buck" showed in 2008, the only way money market mutual funds can withstand excessive market volatility and liquidity crises is by the Federal Reserve intervening with U.S. taxpayer support.

Here is a portion of Charles Schwab's Letter to the SEC on Average Maturity and Transparency

- **"**Weighted Average Life: In addition, the introduction of Weighted Average Life (WAL) calculations, also a result of the 2010 SEC reform initiatives, restrict the maximum weighted average life maturity of a fund's portfolio to

> 120 days. Previously there was no such limit. The effect of this restriction limits the ability of a fund to invest in long-term floating rate securities "

The Derivative Project Comments:

- Most variable rate demand notes use short-term financing through money market mutual funds, but hold long-term, highly leveraged financing needs. In today's low interest rate environment, once inflation and interest rates move dramatically up, these borrowers may not have the revenues to support the increased interest rate payments as below Tier II credits. It is hard to assess the web or guarantees of these below Tier II credits.

- Charles Schwab is asking the taxpayer to absorb all systemic risk and to bail them out, just as the commercial and investment banks were bailed out in 2008-2009. They have seen there were no prosecutions for mismanagement of assets putting the entire financial system at risk.

Returns: Retail Investors Earned Billions in Additional Yield Through Money Market Fund Investing (as stated by the money market industry)

"For retail investors, money market funds have paid almost one-quarter of $1 trillion more in returns than competing bank products since 1990 ($242 billion, assuming reinvestment and compounding)."

The Derivative Project comments:

> This statement by the Investment Company Institute may be correct, however on July 17, 2012 it is misleading. Money market funds cannot perform in a low interest rate environment and they now have created systemic risk based on non-transparent assets held in most Funds. The returns in these funds are now less and the risk is far greater.

The Investment Company Institute (ICI) on Page 198 of its Year-end Report states:

"Money market funds offer investors a variety of features, including liquidity, a market-based rate of return, and the goal of returning principal, all at a reasonable cost. These funds are registered investment companies that are regulated by the Securities and Exchange Commission (SEC) under the U.S. federal securities laws, including Rule 2a-7 under the Investment Company Act. That rule, which was substantially enhanced in 2010, contains numerous risk-limiting conditions intended to help a fund achieve the objective of maintaining a stable NAV using amortized cost accounting or penny rounding or both."

The Derivative Project comments

This is false and misleading. Money market mutual funds no longer provide a market-based return, at a reasonable cost with limited risk.

- Money market funds now pose significant systemic risk, particularly if interest rates were to rise suddenly, since many of the variable interest entities (VIS) pose greater leverage for the entities than can be sustained in a rising rate environment.

- Money market mutual funds, such as Charles Schwab Retirement Advantage (SWIXX) have "voluntary recapture" plans that require once interest rates begin to rise, the Fund will take an ever-increasing percent of the interest rate spread, such that the retirement investor will never get ahead. The proposition that the retirement investor is obligated to return a guaranteed expense level and profit margin for an obsolete product is not only a breach of fiduciary duty under existing securities' laws, but a clear admittance that the product is no longer a "going concern", as it was in the early 1980's and 1990's, when money market mutual funds could pass on to retirement savers higher yields from banker's acceptances and commercial paper, while at the same time making a profit. Those days are long gone.

Charles Schwab wrote further on the SEC on money market reform:

- "Transparency: We believe that one of the most important differences is the transparency of money market funds as compared with banks. Money

market funds are required to report their holdings, their net asset value and other information on a monthly basis to the SEC, which makes that information publicly available on a 60-day lag. In addition, funds are now required to share their holdings with the public by posting that information on the fund's website within 5 business days of the end of each month. Banks are not required to tell clients anything about their holdings. In fact, those holdings tend to be so opaque that, as we saw in the financial crisis in 2008 and continue to see today, bank executives have difficulty sorting it out themselves. "

- This comment misrepresents on how one can analyze a basic credit risk, such as a commercial bank, compared to securitized assets, VIE's and the rating services. It is significantly different to analyze a commercial bank over a securitized asset or guarantees and VIE's and the traditional risks and roles of the commercial banking sector, which are well established, particularly their role in the short-term capital markets. The rating agencies did not due proper due diligence on securitized assets which contributed to the 2008-09 financial crisis. Retirement investors will no longer be dependent on conflicted rating agencies and require the ability to do their own due diligence to assess credit risk and systemic risk.

- It has been the money market Fund companies, such as Schwab and Federated that have twisted and misused the trust of retirement investors by taking their assets and misrepresenting how they are being used.

The Derivative Project Comments:

  - As an individual investor in money market mutual funds, I have full access to a commercial bank's balance sheet, including the amount of exposure to unconsolidated VIE's. I also know that the FDIC, OCC, and the Federal Reserve oversee the commercial bank. Commercial banks have access to the discount window and overnight Federal Reserve financing options. Money market funds do not have this access. They are not commercial banks.

  - As an individual investor, I typically do not pay for a service to locate cusip numbers for all the securitized assets. Thus I must pay for an

extra service to research what is the actual status of a given security, as opposed to being able to see the regular filings at the SEC's Edgar system.

- As an individual investor, I have no access to what assets are actually held by asset-backed commercial paper. I have no idea what my risks are. I know longer trust ratings agencies. If the money market mutual fund strictly invests in A-1, P-1 commercial paper, I can easily look at the balance sheet of the corporation and make my determination as to credit and liquidity risk.

- Variable rate demand notes do not belong in retirement investors' money market mutual funds, they are long-term financing vehicles and it is impossible to determine how many guarantees and interlocking agreements are out there to assess both credit and systemic risk.

In sum, the individual retirement investor does not have access to transparency. Asset backed commercial paper, securitized assets and other structured investment vehicles (such as Whistle Jacket, that the Charles Schwab money market fund held and went bankrupt) are not transparent and it is readily evident the management will throw in anything into a money market mutual fund to "make a buck" even if it "breaks the buck."

Requested Action by the SEC, the Department of Labor and Financial Stability Oversight Council and for Discussion by SEC Investor Advisory Committee on September 28, 2012

We understand the Securities and Exchange Commission has requested that the Financial Stability Oversight Council examine the systemic risk posed by money market mutual funds. As William Dudley, head of the New York Federal Reserve Bank stated on August 15, 2012:

"Runs in the wholesale funding markets, analyzed in the work of economists such as Gary Gorton and Andrew Metrick, both finance professors at the Yale School of Management, and Darrell Duffie, a finance professor at Stanford's Graduate School of Business, are the contemporary equivalent of the depositor

runs that plagued the U.S. banking system 80 years ago. As with old-fashioned depositor runs, wholesale funding runs can have devastating consequences for the real economy."

Until the process described above is accomplished by the FSOC, every retirement investor must be given immediate access to a bank FDIC insured money market sweep option, such as Fidelity's.

Why is Immediate Action Necessary by the SEC and the Department of Labor?

Certain retirement investor funds are being invested and the retirement investor is suffering losses and no return is provided. For example, in a certain TIAA-CREF 403B for a 501C3 non-profit, the money market fund is providing .00% return, yet charging .42% gross and net annual operating expenses. (As an aside, this particular 403B offered by TIAFF-CREF expense structure is so high that the retirement investor is incurring losses far greater than the indices. For example, the TIAFF-CREFF International Equity Fund returns for 12/31/11 were -24.11% compared to MSCI EAFE Index of -12.14%.)

Money market mutual funds financing role in non-consolidated VIE's and asset backed commercial paper must end. A purposeful, slow movement of funds' resources to traditional commercial banking sectors will be managed by the Financial Stability Oversight Council with a strategic plan to prevent a disruptive process in our capital markets. Commercial banks will resume their role in intermediation. Commercial banks can and will resume their role in commercial paper lines and lending. The FSOC must oversee a move back to the traditional role of commercial banks, that will replace the non-transparent securitizations and non-consolidated VIE's that have solely been created to produce income for mutual fund companies, such as Federated and Charles Schwab.

- Once interest rates return to the level that a money market mutual fund can pass on the increased yield from A-1, P-1 paper or Eurocurrency time deposits or bankers' acceptances, money market mutual funds may resume their investment of retirement investors' cash, provided it is only

invested in investments that can be looked at on a monthly basis with full transparency. This would exclude:

1. Asset-backed commercial paper where the underlying assets are not linked to, with full disclosure, online, updated weekly.

2. Any securitized assets, VIE's, would be banned from any retirement money market account. Money market retirement accounts will be limited to the traditional commercial banking short-term money market instruments, as clearly defined in the 1980's. (See Marcia Stigum's **Money Markets**).

- All "voluntary recapture" programs, such as those of Charles Schwab's, described above, will be banned in any retirement money market accounts, immediately.

In sum, the money market investment management industry has a fiduciary duty in their investment decisions to retirement investors. They must put the interests of retirement investors over their own profit model, if it is not in the best interest of the retirement investor. They have breached their fiduciary duty. The SEC must intervene immediately to protect the savings of our nations' retirement investors.

As Sheila Barr said in a recent interview on her new book: Bull By The Horns: Fighting to Save Main Street from Wall Street and Wall Street from Itself.

Reporter: "Well do you think that looking back, then, that we are going to look back at the crisis and the government's response to the crisis, as a bunch of people acting honorably and selflessly and in the interest of the country; or that we will look back and see a rather pathetic picture of people acting in their own interest, or in the interest of these Wall Street firms?

Bair: "I think we will look back and see a regulatory response and a Congressional response that was unwilling to show independence to these large financial institutions and that at the end of the day -- not withstanding the rhetoric -- implemented policies that were highly friendly to these institutions."

Ms. Barr went onto say:

“I am also, though, disappointed in Mr. Obama. I think his policies have been Wall Street-friendly through his economic team. I think he's got the worst of both worlds -- Wall Street doesn't like him because he's been publicly critical, yet his administration has performed policies that are pretty friendly to them.

So at this point I have to say I'm probably going to write in Jon Huntsman. He was talking about financial reform during the debates; good for him, he was really the only one. I wish this issue would become more of an issue in this presidential race. I'd like to hear both candidates talk about it more; show independence from these financial interests. But I'm not really hearing that yet.”

The Derivative Project is asking those sitting on the Investor Advisory Committee to take a vote at your September 28th meeting and have the vote disclosed by participant.

Are you in favor of money market mutual funds (MMF) placing retirement savings in MMF’s that yield less and carry far greater risk, than FDIC sweep accounts? If yes, please explain why.

Are you in favor of allowing retirement investors the option to invest *directly* in Treasuries and FDIC insured CD’s to eliminate unnecessary fees that can no longer be sustained in a historically low-interest rate environment? If no, please explain.

Once we receive the answers from the Investor Advisory Committee, we will also pose the question to Candidate Romney and President Obama. As Sheila Barr stated “I wish this issue would become more of an issue in this presidential race.”

Chairman Shapiro and Investor Advisory Committee, thank you very much for your assistance and time addressing this most crucial issue for retirement investors.

Susan Seltzer, President, The Derivative Project