

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of The Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): October 19, 2017

The Charles Schwab Corporation

(Exact name of registrant as specified in its charter)

Commission File Number: 1-9700

Delaware
(State or other jurisdiction
of incorporation)

94-3025021
(I.R.S. Employer
Identification No.)

211 Main Street, San Francisco, CA 94105
(Address of principal executive offices, including zip code)

(415) 667-7000
(Registrant's telephone number, including area code)

N/A
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers

On October 19, 2017, the Compensation Committee of the Board of Directors of The Charles Schwab Corporation (“CSC”) approved the amendment and restatement of the Deferred Compensation Plan II (the “Plan”). The Plan permits officers of CSC and its subsidiaries to defer a portion of certain cash compensation they may earn. Among other things, the Plan was amended to extend the ability to defer salary to officers with the title of executive vice president and above, thereby making all officers eligible to defer salary in addition to incentive compensation payments. A copy of the Plan is included as Exhibit 10.377 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

Exhibit No.	Description
10.377	<u>The Charles Schwab Corporation Deferred Compensation Plan II</u>

Signature(s)

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

THE CHARLES SCHWAB CORPORATION

Date: October 23, 2017

By: /s/ Peter Crawford
Peter Crawford
Executive Vice President and Chief Financial Officer

THE CHARLES SCHWAB CORPORATION
DEFERRED COMPENSATION PLAN II

(Effective December 9, 2004)
(Amended and Restated December 12, 2007)
(Amended and Restated October 23, 2008)
(Amended and Restated October 19, 2017)

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THE CHARLES SCHWAB CORPORATION
DEFERRED COMPENSATION PLAN II

ARTICLE 1: PURPOSE

1.1 Establishment of the Plan

Effective as of December 9, 2004, The Charles Schwab Corporation (hereinafter, the "Company") established The Charles Schwab Corporation Deferred Compensation Plan II (the "Plan"), as set forth in this document. This Plan shall apply to cash compensation that is earned, deferred and accrued by eligible Participants after December 31, 2004.

1.2 Purpose of the Plan

The Plan permits participating employees to defer the payment of certain cash compensation that they may earn. The opportunity to elect such deferrals is provided in order to help the Company attract and retain key employees. This Plan is unfunded and is maintained primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees. It is accordingly intended to be exempt from the participation, vesting, funding, and fiduciary requirements set forth in Title I of the Employee Retirement Income Security Act of 1974, as amended, ("ERISA"). In addition, because the Company has made a notification filing with the Department of Labor, it is also intended to be otherwise exempt from the reporting and disclosure requirements set forth in Title I of ERISA. In accordance with Section, 6.11(b), the Plan also is intended to meet the requirements of section 409A of the Internal Revenue Code of 1986, as amended, (the "Code") and is to be construed in accordance with that section and any regulatory guidance issued thereunder.

ARTICLE 2: DEFINITIONS

2.1 Definitions

The following definitions are in addition to any other definitions set forth elsewhere in the Plan. Whenever used in the Plan, the capitalized terms in this Section 2.1 shall have the meanings set forth below unless otherwise required by the context in which they are used:

(a) "Administrator" the administrator described in Section 3.1 that is selected by the Committee to assist in the administration of the Plan.

(b) "Beneficiary" means a person entitled to receive any payments that remain to be paid after a Participant's death, as determined under Section 6.3.

(c) "Board" means the Board of Directors of the Company.

(d) "Company" means The Charles Schwab Corporation, a Delaware corporation.

(e) "Committee" means the Compensation Committee of the Board.

(f) "Deferral Account" means the account representing deferrals of cash compensation, plus investment adjustments, as described in Sections 5.6 and 5.7.

(g) "Disability" means a condition such that an individual is "disabled" within the meaning of section 409A of the Code and any regulatory guidance promulgated thereunder. Generally, an individual who is disabled (a) is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months; or (b) is, by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, receiving income replacement benefits for a period of not less than 3 months under an accident and health plan covering employees of the Company or its Subsidiaries.

(h) "Initial Deferral Election" means a deferral election that is made in accordance with Sections 5.1 through 5.5(a).

(i) "Participant" means any employee who meets the eligibility requirements of the Plan, as set forth in Article 4, and includes, where appropriate to the context, any former employee who is entitled to payments under this Plan.

(j) "Plan" means The Charles Schwab Corporation Deferred Compensation Plan II, as in effect from time to time.

(k) "Plan Year" means the calendar year.

(l) "Retirement" shall mean: a Separation from Service with respect to the Company and its Subsidiaries for any reason other than death at any time after the Participant has attained age fifty (50), but only if, at the time of such termination, the Participant has been credited with at least seven (7) Years of Service for deferrals elected prior to October 23, 2008. For deferrals elected on or after October 23, 2008, "Retirement" shall mean: a Separation from Service with respect to the Company and its Subsidiaries for any reason other than death at any time after the Participant has attained age fifty-five (55), but only if, at the time of such termination, the Participant has been credited with at least ten (10) Years of Service.

For purpose of this subparagraph (l), the term "Years of Service" shall have the same meaning given to it under the SchwabPlan Retirement Savings and Investment Plan (or any successor plan).

(m) "Separation from Service" or "Separate(s) from Service" means "Separation from Service" within the meaning of section 409A of the Code and any regulatory guidance promulgated thereunder.

Generally, a separation from service occurs when an individual ceases to provide services for the Company and its affiliates.

(n) "Specified Employee" means a "specified employee" within the meaning of section 409A of the Code and any regulatory guidance promulgated thereunder, provided that in determining the compensation of individuals for this purpose, the definition of compensation in Treas. Reg. § 1.415 (c)-2(d)(2) shall be used.

(o) "Subsequent Deferral Election" means a further deferral election that is made in accordance with Section 5.5(c) and applies to an amount that was already subject to an Initial Deferral Election.

(p) "Subsidiary" means a corporation or other business entity in which the Company owns, directly or indirectly, securities with more than 80 percent of the total voting power.

(q) "Unforeseeable Emergency" means a severe financial hardship to the Participant resulting from (i) an illness or accident of the Participant, the Participant's spouse, or the Participant's dependent (as defined for purposes of the severe financial hardship withdrawal rules of section 409A of the Code); (ii) loss of the Participant's property due to casualty; or (iii) other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant, as determined in the sole discretion of the Administrator in accordance with section 409A of the Code.

(r) "Valuation Date" means each December 31 and any other date designated from time to time by the Committee for the purpose of determining the value of a Participant's Deferral Account balance pursuant to Section 5.6.

2.2 Gender and Number

Except when otherwise indicated by the context, any masculine or feminine terminology shall also include the neuter and other gender, and the use of any term in the singular or plural shall also include the opposite number.

ARTICLE 3: ADMINISTRATION

3.1 Committee and Administrator

The Committee shall administer the Plan and may select one or more persons to serve as the Administrator. The Administrator shall perform such administrative functions as the Committee may delegate to it from time to time. Any person selected to serve as the Administrator may, but need not, be a Committee member or an officer or employee of the Company. However, if a person serving as Administrator or a member of the Committee is a Participant, such person may not vote on a matter affecting his or her interest as a Participant.

The Committee shall have discretionary authority to construe and interpret the Plan provisions and resolve any ambiguities thereunder; to prescribe, amend, and rescind administrative rules relating to the Plan; to select the employees who may participate and to terminate the future participation of any such employees; to determine eligibility for benefits under the Plan; and to take all other actions that are necessary or appropriate for the administration of the Plan. Such interpretations, rules, and actions of the Committee shall be final and binding upon all concerned and, in the event of judicial review, shall be entitled to the maximum deference allowable by law. Where the Committee has delegated its responsibility for matters of interpretation and Plan administration to the Administrator, the actions of the Administrator shall constitute actions of the Committee.

ARTICLE 4: PARTICIPANTS

4.1 Participants

Officers and other key employees of the Company and each of its Subsidiaries shall be eligible to participate in this Plan upon selection by the Administrator. To be nominated for participation, an employee must be a member of a select group of management or highly compensated employees. Directors of the Company who are full-time employees of the Company shall be eligible to participate in the Plan.

ARTICLE 5: DEFERRALS

5.1 Salary Deferrals

Each Participant selected under Section 4.1 may elect to defer up to 50 percent of his or her regular base salary (subject to the provisions of this Article 5). Any such Initial Deferral Election must be made by entering into a deferred compensation agreement with the employer in accordance with procedures, and using a definition of base pay, that is established by the Administrator on or before the applicable election deadline under Section 5.3 for the period during which the services for which the deferred salary is to be earned are performed. Initial Deferral Elections with respect to base pay shall apply only to a single Plan Year, and a new Initial Deferral Election must be made with respect to each Plan Year.

5.2 Deferrals of Bonuses, Commissions and Other Cash Incentive Compensation

Each Participant may elect to defer all or any portion (subject to the provisions of this Article 5 and limitations announced by the Administrator) of (a) his or her commissions (if permitted by the Administrator for the applicable Plan Year); and (b) any amount that he or she subsequently earns under an annual cash bonus program for a year and/or a long-term cash incentive compensation program of the Company or a participating Subsidiary for a specific performance period. Any such Initial Deferral Election must be made by entering into a deferred compensation agreement with the employer in accordance with procedures

established by the Administrator on or before the applicable deadline under Section 5.3. An Initial Deferral Election under this Section 5.2 shall apply only to a single Plan Year and a new deferral election must be made with respect to each Plan Year.

5.3 Timing of Elections

(a) Except as otherwise provided under subparagraph (b) or (c) or (d) below, compensation for services performed during a Plan Year may be deferred pursuant to the Participant's Initial Deferral Election only if the election to defer such compensation is made not later than the close of the preceding Plan Year or, if permitted by the Administrator in its sole discretion, at such other time permitted under the Code.

(b) To the extent permitted under section 409A of the Code and any regulatory guidance promulgated thereunder, in the case of the first Plan Year in which a Participant becomes eligible to participate in the Plan, the Administrator may, in its sole discretion, provide that the Participant may make an Initial Deferral Election to defer compensation for services to be performed subsequent to the election provided that such election is made not later than 30 days after the date the Participant becomes eligible to participate in the Plan. The election shall only apply to compensation earned after the effective date of the election. For purposes of this subparagraph (b), an individual who becomes eligible to participate in a deferred compensation plan, which is aggregated with this Plan under Treasury Regulation 1.409A-1(c)(2), is deemed to have become eligible for this Plan not later than the first day of eligibility under any such deferred compensation plan.

(c) In the case of "performance-based compensation" within the meaning of section 409A of the Code and any regulatory guidance promulgated thereunder that is based on services performed over a performance period of at least 12 months, the Administrator may, in its sole discretion, provide that the Participant may make an Initial Deferral Election to defer such performance-based compensation provided that such election is made not later than 6 months before the end of such performance period.

(d) In the case of "sales commission compensation" and "investment commission compensation" within the meaning of section 409A of the Code and any regulatory guidance promulgated thereunder, the Administrator may, in its sole discretion, provide that the Participant may make an Initial Deferral Election to defer such commission compensation at such other time permitted under the Code and any regulatory guidance promulgated thereunder.

5.4 Deferral Procedures

Subject to Section 5.3, Participants who elect salary deferrals under Section 5.1 shall have an opportunity to do so with respect to each Plan Year. Participants who elect deferrals under Section 5.2

shall have a separate opportunity to do so for each (a) cash bonus under an annual bonus program; (b) cash bonus or incentive payment under a long-term incentive plan; and (c) if permitted by the Administrator, commission that they may earn. The Administrator shall specify the rules for the deferrals that may be elected. If a deferral is elected, the election shall be irrevocable with respect to the particular compensation that is subject to the election after the deadline for such deferrals as set forth in Section 5.3. Deferral elections shall be made on a form prescribed by the Committee or the Administrator, including an electronic form. As provided in Section 6.7, any deferral is subject to appropriate tax withholding measures and may be reduced to satisfy tax withholding requirements.

5.5 Election of Time and Manner of Payment

(a) At the time a Participant makes an Initial Deferral Election under Section 5.1 or 5.2, the Participant shall also designate the manner of payment and the date on which payments from his or her Deferral Account shall begin. Subject to Section 5.5(b), a Participant may elect from among the following options:

(i) a lump sum payable in the month of February of any year that the Participant specifies;

(ii) a lump sum payable in the month of February in the year immediately following the Participant's Retirement;

(iii) a series of annual installments, commencing in any year selected by the Participant and payable each year in February, over a period of four years; or

(iv) a series of annual installments, commencing in the year following the Participant's Retirement and payable each year in February, over a period of five, ten, or fifteen years, as designated by the Participant.

Notwithstanding the terms of a Participant's election regarding the manner and date of payment, whether an Initial Deferral Election or a Subsequent Deferral Election, if a Participant incurs a Separation from Service for any reason other than Retirement or if the Participant does not have a valid election in place, the payment of the Participant's entire Deferral Account, including any unpaid installments pursuant to subparagraph (iii) above, shall be made in a single lump sum in the year following the Participant's Separation from Service in February. Notwithstanding anything in the Plan to the contrary, if (i) a payment is to commence upon a Participant's Retirement or other Separation from Service, (ii) the Participant is a Specified Employee at the time of the Separation from Service, and (iii) the Separation from Service occurs after July, such payment shall commence in the year following the Participant's Separation from Service in July.

Any election of a specified payment date pursuant to subparagraphs (i) or (iii), above, shall be subject to any restrictions that the Committee may, in its sole discretion, choose to establish in order to

limit the number of different payment dates that a Participant may have in effect at one time.

(b) Notwithstanding anything to the contrary in this Plan, except as otherwise permitted under section 409A of the Code, a Participant's Deferral Account shall not be distributed earlier than (i) Separation from Service or, in the case of a Specified Employee, the date that is at least six (6) months after Separation from Service; (ii) Disability; (iii) death; (iv) the specified time or schedule elected under Section 5.5(a)(i) or (iii); (v) to the extent permitted under section 409A of the Code and any regulatory guidance promulgated thereunder, a change in the ownership or effective control of the Company, or in the ownership of a substantial portion of the assets of the Company; or (vi) the occurrence of an Unforeseeable Emergency.

(c) The acceleration of the time or schedule of any payment under the Plan shall not be permitted unless permitted by the Administrator in accordance with the requirements of section 409A of the Code and any regulatory guidance promulgated thereunder. In accordance with the procedures established by the Administrator, a Participant may make a Subsequent Deferral Election to delay the timing and may also change the form of payment elected for a deferral provided that (i) the election shall not take effect until at least 12 months after the date on which the election is made; (ii) the payment (or the start of the installment payments, as applicable) with respect to which such election is made is deferred for a period of not less than five years from the date such payment or such installments would otherwise have been made or started; and (iii) the election shall be made at least 12 months prior to the date of the first scheduled payment. An Initial Deferral Election made in accordance with Section 5.5(a)(ii) or (iv) to receive a distribution of a Deferral Account in a lump sum or installments following Retirement may only be changed once. In addition, a Participant's Subsequent Deferral Elections shall be subject to any restrictions that the Committee may, in its sole discretion, choose to establish in order to limit the number of different payment dates that a Participant may have in effect at one time.

(d) If payment is due in the form of a lump sum, the payment shall equal the balance of the Deferral Account being paid, determined as of the Valuation Date coincident with or immediately preceding the payment date. If payment is due in the form of installments, the amount of each installment payment shall be equal to the quotient determined by dividing (i) the value of the portion of the Deferral Account to which the installment payment election applies (determined as of the Valuation Date coincident with or immediately preceding the date the payment is to be made), by (ii) the number of years over which the installment payments are to be made, less the number of years in which prior payments attributable to such installment payment election have been made. For purposes of the Plan, installment payments shall be treated as a single distribution under section 409A of the Code.

(e) Notwithstanding the foregoing, however, if earnings or losses or any other amounts credited to a Participant's Deferral Account would not be deductible under section 162(m) of the Code if paid at the time provided under the Participant's election, the payment of such amounts, to the extent in excess of the amount that would be currently tax

deductible, shall automatically be deferred until the earliest year that the payment can be deducted, to the extent such deferral is permitted under section 409A of the Code (and in the case of an amount deferred under this provision until after Separation from Service with respect to a Specified Employee, by delaying the distribution for at least six-month following the Separation from Service).

5.6 Accounts and Earnings

The Company shall establish a Deferral Account for each Participant who has elected a deferral under Section 5.1 or 5.2 above, and its accounting records for the Plan with respect to each such Participant shall include a separate Deferral Account or subaccount for each deferral election of the Participant that could cause a payment made at a different time or in a different form from other payments of deferrals elected by the same Participant. Each Deferral Account balance shall reflect the Company's obligation to pay a deferred amount to a Participant or Beneficiary as provided in this Article 5.

Under procedures approved by the Committee and communicated to Participants, a Participant's Deferral Account balance shall be increased or decreased periodically (not less frequently than annually) to reflect an assumed earnings increment or decrement, based on an interest rate or other benchmark selected by the Committee and in effect at the time (the "earnings adjustment"). Until the time for determining the amount to be paid to the Participant or Beneficiary, such assumed earnings adjustment shall accrue from each Valuation Date on the Deferral Account balance as of that date and shall be credited to the account as of the next Valuation Date. The rate of earnings adjustment may, but need not, be determined with reference to the actual rate of earnings on assets held under any existing grantor trust or other informal funding vehicle that is in effect pursuant to Section 6.2. Any method of crediting the earnings adjustment that is followed from time to time may, with reasonable advance notice to affected Participants, be revoked or revised prospectively as of the beginning of any new Plan Year or as of a time period established by the Administrator. Earnings adjustments that have been credited for any Plan Year, like deferred amounts that have been previously credited to a Participant, shall not be modified or eliminated retroactively unless they were credited in error, and then they shall be corrected appropriately. The crediting of assumed earnings adjustments shall not mean that any deferred compensation promise to a Participant is secured by particular investment assets or that the Participant is actually earning interest or any other form of investment income under the Plan. Consistent with the foregoing authority to exercise flexibility in establishing a method for crediting assumed earnings adjustments on Deferral Account balances, the Committee may, but need not, consult with Participants about their investment preferences and may, but need not, institute a program of assumed earnings adjustments that tracks the investment performance in a Participant's qualified defined contribution plan account or in an assumed participant-directed investment arrangement.

5.7 Maintenance of Accounts

The Accounts of each Participant shall be entered on the books of the Company and shall represent a liability, payable when due under this Plan, out of the general assets of the Company. Prior to benefits becoming due hereunder, the Company shall expense the liability for such accounts in accordance with policies determined appropriate by the Company's auditors. Except to the extent provided pursuant to the second paragraph of this Section 5.7, the Accounts created for a Participant by the Company shall not be funded by a trust or an insurance contract; nor shall any assets of the Company be segregated or identified to such account; nor shall any property or assets of the Company be pledged, encumbered, or otherwise subjected to a lien or security interest for payment of benefits hereunder.

Notwithstanding that the amounts to be paid hereunder to Participants constitute an unfunded obligation of the Company, the Company may direct that an amount equal to all or any portion of the Accounts shall be invested by the Company as the Company, in its sole discretion, shall determine. The Committee may in its sole discretion determine that all or any portion of an amount equal to the Accounts shall be paid into one or more grantor trusts that may be established by the Company for the purpose of providing a potential source of funds to pay Plan benefits. The Company may designate an investment advisor to direct the investment of funds that may be used to pay benefits, including the investment of the assets of any grantor trusts hereunder. Any such grantor trust shall be established and operated in a manner that is at all times consistent with the amounts to be paid remaining unfunded obligations for purposes of ERISA.

5.8 Change in Control

In the event of a Change in Control (as defined below), the following rules shall apply:

(a) All Participants shall continue to have a fully vested, non-forfeitable interest in their Deferral Accounts.

(b) To the extent permitted under section 409A of the Code and any regulatory guidance issued thereunder when the Plan is terminated within 30 days preceding the Change in Control or the 12 months following the Change in Control, deferrals of amounts for the year that includes the Change in Control shall cease beginning with the first payroll period that follows the termination of the Plan.

(c) A special allocation of earnings on all Deferral Accounts shall be made under Section 5.6 as of the date of the Change in Control (such that the date of the Change in Control is a Valuation Date) on a basis no less favorable to Participants than the method being followed prior to the Change in Control.

(d) To the extent permitted under section 409A of the Code and any regulatory guidance issued thereunder and notwithstanding any Initial Deferral Election or Subsequent Deferral Election made pursuant to Section 5.5(a) and (c), the unpaid balance of a Participant's

Deferral Account, including any unpaid installments, shall be distributed in a cash lump sum no later than 30 days following the Change in Control and shall be in an amount equal to the full Deferral Account balance, as adjusted pursuant to subparagraph (c) above, as of the date of the Change in Control.

(e) Subject to section 409A of the Code and any regulatory guidance promulgated thereunder, nothing in this Plan shall prevent a Participant from enforcing any rules in a contract or another plan of the Company or any Subsidiary concerning the method of determining the amount of a bonus, incentive compensation, or other form of compensation to which a Participant may become entitled following a change in control, or the time at which that compensation is to be paid in the event of a change in control.

(f) For purposes of this Plan, a "Change in Control" means any of the following but only to the extent that such change in control transaction is a change in the ownership or effective control of the Company or a change in the ownership of a substantial portion of the assets of the Company as defined in the regulations promulgated under section 409A of the Code:

(1) Any "person" who, alone or together with all "affiliates" and "associates" of such person, is or becomes (A) an "acquiring person" or (B) the "beneficial owner" of 35% of the outstanding voting securities of the Company (the terms "acquiring person", "person", "affiliates", "associates" and "beneficial owner" are used as such terms are used in the Securities Exchange Act of 1934 and the General Rules and Regulations thereunder); provided, however, that a "Change in Control" shall not be deemed to have occurred if such "person" is Charles R. Schwab, the Company, any subsidiary or any employee benefit plan or employee stock plan of the Company or of any Subsidiary, or any trust or other entity organized, established or holding shares of such voting securities by, for or pursuant to, the terms of any such plan; or

(2) Individuals who at the beginning of any one year period constitute the Board cease for any reason, during such period, to constitute at least a majority thereof, unless the election, or the nomination for election by the Company's Shareholders, of each new Board Member was approved by a vote of a majority of the Board members then still in office who were Board members at the beginning of such one year period; or

(3) Approval by the shareholders of the Company of:

(A) the sale or transfer of substantially all of the Company's business and/or assets to a person or entity that is not a "subsidiary" (any corporation or other entity a majority or more of whose outstanding voting stock or voting power is beneficially owned directly or indirectly by the Company); or

(B) an agreement to merge or consolidate, or otherwise reorganize, with one or more entities which are not subsidiaries (as defined in (A) above), as a result of which less than 50% of the outstanding voting securities of the surviving or resulting entity are, or are to be, owned by former shareholders of the Company.

A Change in Control shall occur on the first day on which any of the preceding conditions has been satisfied. However, notwithstanding the foregoing, this Section 5.8 shall not apply to any Participant who alone or together with one or more other persons acting as a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, holding or disposing of securities of the Company, triggers a "Change in Control" within the meaning of paragraphs (1) or (2) above.

5.9 Payment of Deferred Amounts

A Participant shall have a fully vested, non-forfeitable interest in his or her Deferral Account balance at all times. However, vesting does not confer a right to payment other than in the manner elected by the Participant (or otherwise applicable) pursuant to Section 5.5 (subject to any modification that may occur pursuant to Section 5.6, 5.8, or 5.10). Upon the expiration of a deferral period selected by the Participant in one or more deferral elections or at such earlier time as provided for in Section 5.5, the Company shall pay to such Participant (or to the Participant's Beneficiary, in the case of the Participant's death) an amount equal to the balance of the Participant's Account attributable to such expiring deferral elections, plus assumed earnings (determined by the Company pursuant to Section 5.6) thereon.

5.10 Payment on Certain Events

Notwithstanding any elections that have been made under Section 5.5, the unpaid balance of a Participant's Deferral Account, including any unpaid installments, shall be paid in a lump sum within sixty (60) days in the event of the Participant's death, Disability, or upon receipt of a written request from a Participant and the Administrator's determination that the Participant has incurred an Unforeseeable Emergency; provided, that the amounts distributed because of an Unforeseeable Emergency shall not exceed the amounts necessary to satisfy such Unforeseeable Emergency plus amounts necessary to pay taxes reasonably anticipated as a result of the distribution, after taking into account the extent to which such Unforeseeable Emergency is or may be relieved through reimbursement or compensation by insurance or otherwise or by liquidation of the individual's assets (to the extent the liquidation of such assets would not itself cause severe financial hardship).

ARTICLE 6: GENERAL PROVISIONS

6.1 Unfunded Obligation

The deferred amounts to be paid to Participants pursuant to this Plan constitute unfunded obligations of the Company. Except to the extent specifically provided hereunder, the Company is not required to segregate any monies from its general funds, to create any trusts, or to make any special deposits with respect to this obligation. Title to

and beneficial ownership of any investments, including any grantor trust investments which the Company has determined and directed the Administrator to make to fulfill obligations under this Plan shall at all times remain in the Company. Any investments and the creation or maintenance of any trust or Accounts shall not create or constitute a trust or a fiduciary relationship between the Administrator or the Company and a Participant, or otherwise create any vested or beneficial interest in any Participant or his or her Beneficiary or his or her creditors in any assets of the Company whatsoever. The Participants shall have no claim for any changes in the value of any assets which may be invested or reinvested by the Company in an effort to match its liabilities under this Plan.

6.2 Informal Funding Vehicles

Notwithstanding Section 6.1, the Company may, but need not, arrange for the establishment and use of a grantor trust or other informal funding vehicle to facilitate the payment of benefits and to discharge the liability of the Company under this Plan to the extent of payments actually made from such trust or other informal funding vehicle. Any investments and any creation or maintenance of memorandum accounts or a trust or other informal funding vehicle shall not create or constitute a trust or a fiduciary relationship between the Committee or the Company and a Participant, or otherwise confer on any Participant or Beneficiary or his or her creditors a vested or beneficial interest in any assets of the Company whatsoever. Participants and Beneficiaries shall have no claim against the Company for any changes in the value of any assets which may be invested or reinvested by the Company with respect to this Plan.

6.3 Beneficiary

The term "Beneficiary" shall mean the person or persons to whom payments are to be paid pursuant to the terms of the Plan in the event of the Participant's death. A Participant may designate a Beneficiary on a form provided by the Administrator, executed by the Participant, and delivered to the Administrator prior to the death of the Participant. The Administrator may require the consent of the Participant's spouse to a designation if the designation specifies a Beneficiary other than the spouse. Subject to the foregoing, a Participant may change a Beneficiary designation at any time. Subject to the property rights of any prior spouse, if no Beneficiary is designated, if the designation is ineffective, or if the Beneficiary dies before the balance of the Account is paid, the balance shall be paid to the Participant's surviving spouse, or if there is no surviving spouse, to the Participant's estate.

6.4 Incapacity of Participant or Beneficiary

Every person receiving or claiming benefits under the Plan shall be conclusively presumed to be mentally competent and of age until the date on which the Administrator receives a written notice, in a form

and manner acceptable to the Administrator, that such person is incompetent or a minor, for whom a guardian or other person legally vested with the care of his or her person or estate has been appointed; provided, however, that if the Administrator finds that any person to whom a benefit is payable under the Plan is unable to care for his or her affairs because of incompetency, or because he or she is a minor, any payment due (unless a prior claim therefor shall have been made by a duly appointed legal representative) may be paid to the spouse, a child, a parent, a brother or sister, or to any person or institution considered by the Administrator to have incurred expense for such person otherwise entitled to payment. To the extent permitted by law, any such payment so made shall be a complete discharge of liability therefor under the Plan.

If a guardian of the estate of any person receiving or claiming benefits under the Plan is appointed by a court of competent jurisdiction, benefit payments may be made to such guardian provided that proper proof of appointment and continuing qualification is furnished in a form and manner acceptable to the Administrator. In the event a person claiming or receiving benefits under the Plan is a minor, payment may be made to the custodian of an account for such person under the Uniform Gifts to Minors Act. To the extent permitted by law, any such payment so made shall be a complete discharge of any liability therefore under the Plan.

6.5 Nonassignment and Qualifying Domestic Relations Orders

Except insofar as may otherwise be required by law or pursuant to the terms of a Qualifying Domestic Relations Order, as set forth in this Section 6.5, the right of a Participant or Beneficiary to the payment of any amounts under the Plan may not be assigned, transferred, pledged or encumbered nor shall such right or other interests be subject to attachment, garnishment, execution, or other legal process. Notwithstanding the prior sentence, all or a portion of a Participant's Account balance may be paid to another person as specified in a domestic relations order that the Administrator determines is qualified (a "Qualifying Domestic Relations Order"). For this purpose, a Qualifying Domestic Relations Order means a judgment, decree, or order (including the approval of a settlement agreement) which is: (a) issued pursuant to a State's domestic relations law; (b) relates to the provision of child support, alimony payments or marital property rights to a spouse, former spouse, child or other dependent of the Participant; (c) creates or recognizes the right of a spouse, former spouse, child or other dependent of the Participant to receive all or a portion of the Participant's payment under the Plan; (d) provides for payment in an immediate lump sum as soon as practicable after the Administrator determines that a Qualifying Domestic Relations Order exists; and (e) meets such other requirements established by the Administrator that are consistent with Treasury Regulation §1.409A-3(j)(4)(ii). The Administrator shall determine whether any document received by it is a Qualifying Domestic Relations Order. In making this determination, the Administrator may consider the rules applicable to "domestic relations orders" under Code section 414(p) and ERISA section 206(d), and such other rules and procedures as it deems relevant.

6.6 No Right to Continued Employment

Nothing in the Plan shall be construed to confer upon any Participant any right to continued employment with the Company, nor shall the Plan interfere in any way with the right of the Company to terminate the employment of such Participant at any time without assigning any reason therefor.

6.7 Tax Withholding

Appropriate taxes shall be withheld from cash payments made to Participants pursuant to the Plan. To the extent tax withholding is payable in connection with the Participant's deferral of income rather than in connection with the payment of deferred amounts, such withholding may be made from other wages and salary currently payable to the Participant, or, as determined by the Administrator, the amount of the deferral elected by the Participant may be reduced in order to satisfy required tax withholding for employment taxes and any other taxes.

6.8 Claims Procedure Generally

In connection with any claim or dispute arising prior to a Change in Control, the Administrator has established a claims procedure consistent with the requirements of ERISA, which is set forth in the Prospectus for the Plan, the terms of which are incorporated here by reference. The parties assigned responsibility for claims under the claims procedure have the exclusive and discretionary authority to construe and to interpret the Plan, to decide all questions of eligibility for benefits, to determine the amount and manner of payment of such benefits and to make any determinations that are contemplated by (or permissible under) the terms of this Plan, to resolve any other claims and disputes regarding rights in relation to the Plan, and the parties' decisions on such matters will be final and conclusive on all other parties. Any such decision or determination shall be made in the absolute and unrestricted discretion of the responsible parties, even if (1) such discretion is not expressly granted by the Plan provisions in question, or (2) a determination is not expressly called for by the Plan provisions in question, and even though other Plan provisions expressly grant discretion or call for a determination. As a result, benefits under this Plan will be paid only if the responsible parties decide in their discretion that the applicant is entitled to them. In the event of a review by a court, arbitrator or any other tribunal, any exercise of the parties' discretionary authority shall not be disturbed unless it is clearly shown to be arbitrary and capricious, such review may not proceed unless the applicant has fully exhausted the claims procedure, and such review will be limited to the record that was considered by or presented to the responsible parties in the claims procedure. In determining whether an applicant has exhausted the claims procedure, the exhaustion requirement of this Section 6.8 shall

require exhaustion in as many circumstances as possible (and any steps necessary to clarify or effect this intent may be taken), and the application of such requirement shall take into account that the Plan's status as a "top-hat plan" (a plan that is unfunded and is maintained primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees) renders exceptions to exhaustion invalid. A civil action for benefits under the Plan may only be brought after the Participant has exhausted the Plan's claims and appeal procedures within one year from the date of the final decision regarding the claim for benefits.

6.9 Arbitration Following a Change in Control

Following a Change in Control of the Company (as determined under Section 5.8) the claims procedure shall include the following arbitration procedure. Since time will be of the essence in determining whether any payments are due to the Participant under this Plan following a Change in Control, a Participant may submit any claim for payment to arbitration as follows: On or after the second day following the Change in Control or other event triggering a right to payment, the claim may be filed with an arbitrator of the Participant's choice by submitting the claim in writing and providing a copy to the Company. The arbitrator must be

- (a) a member of the National Academy of Arbitrators or one who currently appears on arbitration panels issued by the Federal Mediation and Conciliation Service or the American Arbitration Association; or
- (b) a retired judge of the State in which the claimant is a resident who served at the appellate level or higher.

The arbitration hearing shall be held within 72 hours (or as soon thereafter as possible) after filing of the claim unless the Participant and the Company agree to a later date. No continuance of said hearing shall be allowed without the mutual consent of the Participant and the Company. Absence from or nonparticipation at the hearing by either party shall not prevent the issuance of an award. Hearing procedures which will expedite the hearing may be ordered at the arbitrator's discretion, and the arbitrator may close the hearing in his or her sole discretion upon deciding he or she has heard sufficient evidence to satisfy issuance of an award. In reaching a decision, the arbitrator shall have no authority to ignore, change, modify, add to or delete from any provision of this Plan, but instead is limited to interpreting this Plan. The arbitrator's award shall be rendered as expeditiously as possible, and unless the arbitrator rules within seven days after the close of the hearing, he will be deemed to have ruled in favor of the Participant. If the arbitrator finds that any payment is due to the Participant from the Company, the arbitrator shall order the Company to pay that amount to the Participant within 48 hours after the decision is rendered. The award of the arbitrator shall be final and binding upon the Participant and the Company.

Judgment upon the award rendered by the arbitrator may be entered in any court in any State of the United States. In the case of any

arbitration regarding this Agreement, the Participant shall be awarded the Participant's costs, including attorney's fees. Such fee award may not be offset against the deferred compensation due hereunder. The Company shall pay the arbitrator's fee and all necessary expenses of the hearing, including stenographic reporter if employed.

6.10 Termination and Amendment

The Committee may from time to time amend, suspend or terminate the Plan, in whole or in part, and if the Plan is suspended, the Committee may reinstate any or all of its provisions. The Executive Vice President - Human Resources has the authority to amend the Plan to comply with the requirements of the Code, to avoid a plan failure under section 409A of the Code and to facilitate administration of the Plan to the extent that any such amendments will not materially increase the cost of the Plan. Except as otherwise required by law, the Committee may delegate to the Administrator all or any of its foregoing powers to amend or suspend the Plan. Any such amendment or suspension may affect future deferrals without the consent of any Participant or Beneficiary. However, with respect to deferrals that have already occurred, no amendment or suspension may impair the right of a Participant or a designated Beneficiary to receive payment of the related deferred compensation in accordance with the terms of the Plan prior to the effective date of such amendment or suspension, unless the affected Participant or Beneficiary gives his or her express written consent to the change; provided that such consent shall not be required if an amendment is required to avoid a plan failure under section 409A of the Code.

Subject to the requirements of section 409A of the Code and any regulatory guidance promulgated thereunder, the Committee may terminate the Plan at any time and in the Committee's discretion the Deferral Accounts of Participants may be distributed within the period beginning twelve months after the date the Plan was terminated and ending twenty-four months after the date the Plan was terminated, or pursuant to Section 5.5, 5.8, or 5.10, if earlier. If the Plan is terminated and Deferral Accounts are distributed, the Company shall terminate all account balance non-qualified deferred compensation plans that are aggregated with the Plan under section 409A of the Code with respect to all participants and, to the extent applicable under section 409A under the circumstances of the termination, shall not adopt a new account balance non-qualified deferred compensation plan that is aggregated with the Plan under section 409A of the Code for at least three years after the date the Plan was terminated.

The Committee, in its discretion, may terminate the Plan upon a corporate dissolution of the Company that is taxed under section 331 of the Code or with the approval of a bankruptcy court pursuant to 11 U.S.C. section 503(b)(1)(A), provided that the Participants' Deferral Accounts are distributed and included in the gross income of the Participants at the time required under section 409A of the Code.

6.11 Applicable Law

(a) The Plan shall be construed and governed in accordance with applicable federal law and, to the extent not preempted by such federal law, the laws of the State of California to the extent the application of such state laws would not result in the taxation of amounts deferred under the Plan until such amounts are distributed to participants under the Plan.

(b) (1) It is intended that this Plan shall be construed and administered in a manner that satisfies the requirements for any deferral of income under the Code including, but not limited to, Section 409A of the Code (“Section 409A”), and in a manner that will not cause a Participant to be liable for the payment of interest and tax penalties that may be imposed under Section 409A in connection with noncompliance with Section 409A. If any provision of this Plan may be susceptible to more than one interpretation, and one possible interpretation may result in noncompliance with Section 409A, such provision shall be applied and construed in a manner that is consistent with the provisions of Section 409A and the regulations and other guidance, while minimizing modifications to the Plan’s administrative practices to the extent feasible under the circumstances. To the extent that any provision of the Plan would cause an unambiguous conflict with the requirements of Section 409A, or would cause the administration of the Plan to fail to satisfy the requirements of Section 409A, such provision shall be deemed null and void to the maximum extent permitted by applicable

(2) Neither the Company, any Subsidiary or any employer assumes any economic burdens associated with Section 409A. Although the Company intends to administer the Plan to prevent noncompliance with Section 409A, it does not represent or warrant that the Plan complies with Section 409A or any other provision of federal, state, local, or non-United States law. The Company, the Subsidiaries, the employers, and their respective directors, officers, employees and advisers (the “Applicable Parties”) will not be liable to any Participant (or any other individual claiming a benefit through or in connection with a Participant) for any tax, interest, or penalties the Participant (or any other individual) may owe as a result of participation or an interest or right under the Plan. None of the Applicable Parties have any obligation to indemnify or otherwise protect any Participant or other individual from any taxes, penalties, interest or other tax-related liabilities in connection with Section 409A.