

MIDDLEWARE SYSTEM

SLICES/PIECES/FRACTIONS AND THE '860 SYSTEM, SOFTWARE AND PROCESS

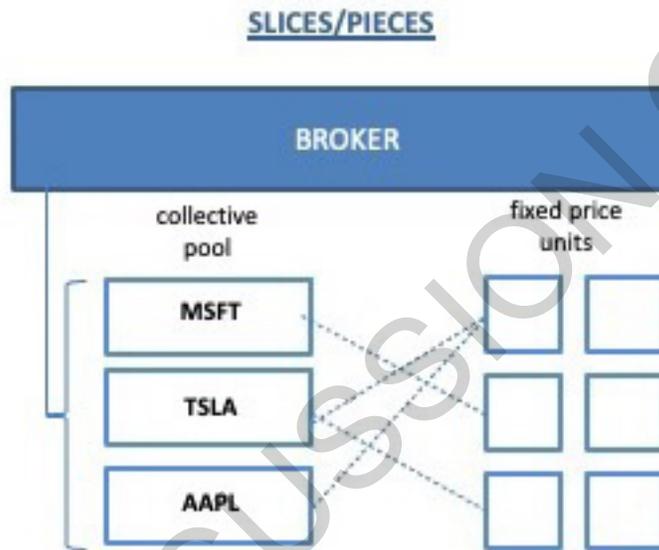


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FIXED PRICE ARRANGEMENTS: FRACTIONAL SHARES, SHARE SLICES, RETAIL MONEY MARKET FUNDS, AND STABLECOINS PLUG-IN MIDDLEWARE

EXECUTIVE SUMMARY - US 8,538,860

Brokerage firms and crypto managers have launched products where fixed-price/variable-unit processes solve for problems of access and predictability. Fractional shares or "slices" have been introduced on U.S. stock trading platforms to enable the purchase of high priced stocks for \$1. U.S. retail money market funds are based on a fixed price \$1-par concept for predictability, but 0% interest rates coupled with fund fees may force fund closures. Similarly, stablecoin cryptocurrencies seek to maintain a fixed currency peg, but fees, yields, and coin inflation can frustrate a consistent peg. '860 addresses software and system integration through a middleware system arrangement.

'860 includes a system arrangement which operates between sponsor platforms and exchange platforms to produce stable, fixed, and individualized results on generic electronic systems over constantly varying instruments.

Fractional Share Trading or "Slices"

Many stocks favored by retail investors have high share prices which make individual share purchases impractical. As of July 1, 2020, examples include Amazon, Google, and Apple with share prices of \$2878, \$1438, and \$364 respectively. To improve access, most retail brokerage firms have launched fractional or "slice" trading. In summary, fractional units or "shares" are offered in a market period at fixed prices (e.g. \$1), where each \$1 slice represents a differing "par" value as the broker adjusts the number of \$1 units which comprise a full share.¹ Acquired shares are settled at the close of a market period for \$1, and systems produce variable intra-period prices for performance measurement.

Money Market Funds in Low-Yield Environments and Pegged Stablecoins

The U.S. money market fund industry distinguishes institutional money market funds from retail funds, where institutional fund values are based on mark-to-market values and retail funds maintain a \$1 per share par value. As U.S. providers face the challenges of earning zero yields, subject to U.S. regulation, providers are prepared to implement solutions consistent with '860 including system-based share adjustments.² Pegged stablecoins face a similar challenge, as the combination of yields on cash, expenses, fees, and inflation frustrate pure \$1 peg-values.

	N	Apple	f
AMOUNT INVESTED	\$5	\$5	\$5
SHARE PRICE	\$415	\$317	\$232
SHARE %	1.2%	1.6%	2.2%

'860 "Par Value" illustration
 Referring to the exhibit, when the Apple share price is \$317, a \$5 slice carried a "par value" of 0.016 (or alternatively 0.016 times the corporate par "liquidation value" definition). Applying the par formula in '860, (based on a fixed \$5 acquisition price) when the share price rises 10% to 348.7 (from \$317), the "par value" of a slice is 0.0145. Importantly, intra-period values are also created for performance consistent and detailed in '860.

$$P(t) = (([317/5] \times 0.016) / [348.7/5] \times (1 + (5-5)/5)) = 0.0145$$

source: schwab.com

CURRENT AND PROJECTED SIZE

The fixed-price fractional share marketplace is reported to have started around 2017 with M1 Finance, following JP Morgan's no-action relief on fractionals. Since then almost every mainstreet brokerage firm has implemented a fixed price trading system.¹ The combination of low commissions and fractional shares is credited with a doubling of account growth on many of the largest platforms, and early 2020 trading volumes are reported to have increased by as much as 400% year-on year.^{3,4,5}

1. "Want a 'Slice' of a Stock? Demand Booms for Fractional Shares as Markets Soar", Yahoo Finance, Ethan Wolff-Mann, June 12, 2020
2. "Negative Rates: Could it happen in the US?", Invesco Blog, June 11, 2020, <https://www.blog.invesco.us.com/negative-rates-could-it-happen-in-the-us/>
3. "Young investors pile into stocks, seeing generational buying moment instead of risk", CNBC.com, Maggie Fitzgerald, May 12, 2020
4. Fintech app Robinhood is driving a retail trading renaissance...", CNBC.com, Kate Rooney, June 17, 2020
5. "Individuals Roll the Dice on Stocks as Veterans Fret", WSJ, Zuckerman and Frankl-Duval, June 9, 2020

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BID \$2,563.00 x 1

ASK \$2,566.00 x 1

Buy Sell

Order Type **Shares** Dollars

Order Amount **\$100**

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Robinhood Products Learn Support Who we are

Buy a single slice for as little as \$5.

Introducing Fractional Shares

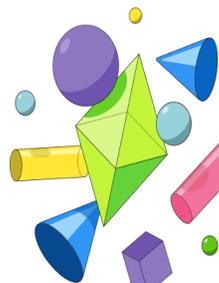
Invest in thousands of stocks with as little as \$1.

Invest Any Amount

Choose how much you want to invest, and we'll convert from dollars to parts of a whole share.

Build a Balanced Portfolio

Customize your portfolio with pieces of different companies and funds to help reduce risk.



	BEST BUY	Apple	Nike
AMOUNT INVESTED	\$5	\$5	\$5
SHARE PRICE	\$111	\$108	\$120
SHARE %	4.5%	4.6%	4.2%

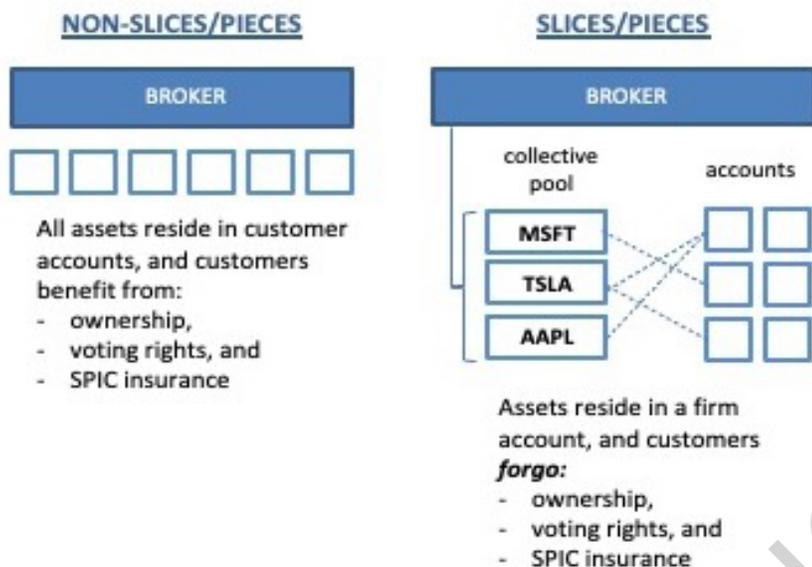
[Fractional Shares Disclosure](#)

MIDDLEWARE SYSTEM

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SLICES/PIECES/FRACTIONS AND THE '860 SYSTEM, SOFTWARE AND PROCESS

SLICES / PIECES / FRACTIONS ARCHITECTURE



Regulatory Background

The Slices implementations of '860 are largely the result of a 2016 SEC no-action letter directed to JP Morgan relating to the collective liquidation of fractional shares in customer accounts, where the fractional shares are the result of conventional corporate actions.¹

At a high level, the letter permits customer fractions to be held and transacted at a singular price, and it eliminated the requirement to produce timely individual trade confirmations.

The industry used the collective/pooled nature of disposing of fractional shares, and turned it into a business and systems where customers affirmatively create fixed price interests into a pooled/collective vehicle.

SLICES / PIECES / FRACTIONS - UNITS IMPLEMENTATION

'860 details the creation and subsequent management and manipulation of units interests, or shares ('860 Col. 2, lines 62-67) of a collective vehicle.

The asset pool operates as an unsegregated account under the ownership and control of the operator. This arrangement differs from certificated shares (i.e. non slices/pieces). As a result of this arrangement, (i) slice/pieces cannot be transferred, (ii) voting and other rights are absent or uncertain, and (iii) SIPC protection is unavailable or uncertain.

Selected Disclosures:

Robinhood - "I understand that fractional shares within My Account (i) are unrecognized, unmarketable, and illiquid outside the Robinhood platform, (ii) are not transferable in-kind, and (iii) may only be liquidated and the proceeds transferred out via a wire transfer."

Robinhood - "I agree that my fractional share holdings shall be treated as a "financial asset" under Article 8 of the Uniform Commercial Code."

Robinhood - "...investors can buy fractional shares of stocks and exchange traded funds (ETFs) with as little as \$1"

Schwab - "Fractional Shares may have different rights from full share interests of the same security"

Schwab - "Since your Fractional Shares cannot be transferred, your overall SIPC coverage may be affected"

Betterment - "Dollar Based Transactions and Fractional Shares. Client understands that, subject to applicable requirements, Betterment Securities ..may report holdings and transactions ...in terms of either U.S. Dollars or shares."

U.S. SEC - "fractional shares are not issued by the issuer but rather are account entries meant to represent the portion of a whole share (held by a broker or another party) that an accountholder would be entitled to if fractional shares could be traded in the marketplace." ¹

1. [https://www.sec.gov/divisions/investment/noaction/2016/jpmorgan-041416-206\(3\).htm](https://www.sec.gov/divisions/investment/noaction/2016/jpmorgan-041416-206(3).htm)

MANIPULATION OF UNITS

Units are created at a fixed price during a market session, and units are attributed with an intra-period price which may differ from the fixed price. Further, subject to certain terms, created units may be added to with additional buys or reversed in whole or in part through sales. In all instances, and regardless of intra-period values, units are always settled after the end of a market period with reference to the initial fixed price and converted into a par-equivalent for system and regulatory purposes

Through: (i) the pooled nature (e.g. Robinhood's platform), (ii) the varying underlyings (e.g. "MSFT"), (iii) the creation of fixed price units, and (iv) uncertain entry timing, uncertain quantities, and the customizable fixed prices (e.g. \$1, \$5, \$10) of new entrants, unit manipulation is performed by the system.

Example A illustrates system unit manipulation at the customer level. Example B illustrates system unit manipulation at the platform level.

EXAMPLE A

Example A tracks typical scenario where a client transacts in pieces/slices/bits over a session close.

Fractions/pieces/slices/bits are created, offered and transactable in fixed dollar prices on every platform. On most platforms, the fixed dollar price of a piece, slice or unit is \$1.

Example Single Client Units

at 10:00:00am

"XYZ" company stock is \$90

acquire/create [3] \$1 units {bought/created} when XYZ is \$90 (par equivalent equals 0.011111)

- salable pieces equals 3 as per platform system and rules

3:59:59pm

"XYZ" company stock is \$180

salable units are modified such that the new units are doubled to 6: $[3 \times 2/1]$, and par equivalent is halved

sell/redeem [4] \$1 units when XYZ is \$180

Post-session - "XYZ" closes at \$180

- the platform manipulates this holder's units to: [2] \$1 units following market session

- through this simple single client example, the system manipulated the units such that "3 minus 4 equals 2"

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MANIPULATION OF UNITS (continued)

EXAMPLE B

cohort a buys (20) \$1 units on day 1 - morning
 cohort b buys (12) \$1 units on day 1 - afternoon
 cohort c buys (10) \$1 units on day 2 - morning
 cohort d buys (30) \$1 units on day 2 - afternoon

time	pool shares	share price	cohort	cohort units	cohort fixed \$	% of a share	% of pool	intraperiod value	cohort value
SESSION ONE									
9:30:01 am	1	100	cohort a	20	1	1.00%	20.00%	1.00	20
3:59:00 pm	1	200	cohort a	20	1	1.00%	20.00%	2.00	40
3:59:59 pm	1	200	cohort a	20	1	1.00%	20.00%	2.00	40
			cohort b	12	1	0.50%	6.00%	1.00	12
4:00:00 pm	1	150	cohort a (30) \$1 units from (20) \$1 units intraday of \$2.00, closing of \$1.50						30
			cohort b (9) \$1 units from (12) \$1 units intraday of \$1.00, closing of \$0.75						9
SESSION TWO									
9:30:01 am	1	100	cohort a	30	1	1.00%	20.00%	0.67	20
			cohort b	9	1	0.50%	6.00%	0.67	6
			cohort c	10	1	1.00%	10.00%	1.00	10
3:00:00 pm	1	150	cohort a	30	1	1.00%		1.00	30
			cohort b	9	1	0.50%		1.00	9
			cohort c	10	1	1.00%		1.50	15
			cohort d	30	1	0.67%	20.00%	1.00	30
4:00:00 pm	1	100	cohort a	30	1	1.00%		0.67	20
			cohort b	9	1	0.50%		0.67	6
			cohort c	10	1	1.00%		1.00	10
			cohort d	30	1	0.67%		0.67	20
4:00:00 pm	1	100	cohort a (20) \$1 units, from (30) \$1 units						20
			cohort b (6) \$1 units, from (9) \$1 units						6
			cohort c (10) \$1 units						10
			cohort d (20) \$1 units, from (30) \$1 units						20

'860 Solution Overview

'860 is the first patented technology to solve what the financial industry describes as the "ProShares Problem" through the use of par manipulations, fixed resets, and its middleware integration among exchanges, stocks, and indices and the electronic trading platforms customers trade over (see FIG.1). ***'860 solves intractable problems relating to flexible and customized entry into a collective vehicle without additional electronic venue or exchange systems overhead, while also eliminating the need to reprogram and repurpose backend and front-end systems.***

The ProShares Problem arises when a fund system attempts to create non-standard interests for an underlying; standard interests are when everything related to a collective vehicle are 1-for-1, and where vehicle participants are entering and exiting with consistent proportionality and consistently aligned price values. The problem is most common in vehicles like "leveraged etfs", but is also introduced with "Slices" where promised proportionality is changing due market changes, new fixed prices, and minimum unit denominations.

Jim Cramer Video on the Problem

<https://www.cnbc.com/video/2011/10/14/cramer-rails-against-leveraged-etfs.html>

Jim Cramer Video with Jack on Solutions

<https://www.cnbc.com/video/2013/04/04/accushares-ceo-risks-surrounding-leveraged-inverse-etfs.html>

Because vehicles which purport to deliver leveraged or deleveraged results of an underlying index (e.g. +2x or -2x MSFT) also permit new entrants (i.e. new buyers of the 2X MSFT), the new buyers get an accurate return for 1-day, but all the existing holders get nasty artifacts from the compounding of their returns which arises from the non-stationary par/notional values in conventional systems. The '860 specification illustrates examples at +2X and -1X in figures 7 and 7A and the related specification language, and in practice the solution works from -X to +Y.

Interestingly Robinhood, Schwab and others are delivering a range of 1/1000 to 1/1, and have the same entry and exit problem; if someone's already in at 1/100th and a new holder wants to come in at 1/100th, but the underlyings and collective pool have moved, a system manipulation must be performed and maintained instantaneously to adjust each unit's footing in the collective vehicle, while also retaining homogeneity in preferences and the faithful delivery of accurate returns.

Further, we believe that Robinhood, Schwab and others have integrated the '860 technology directly into their brokerage system to maintain the characterization that their daily continuous offering of customized securities are not actually issuances of unregistered securities (see "*Regulatory Background*", p.4). Their adoption of '860 cloaks the Slices product into a technological solution rather than a securities offerings, which we believe is also critical for the success and survival of Slices.

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Investment Advisers Act of 1940 – Section 206(3)

April 14, 2016

RESPONSE OF THE OFFICE OF CHIEF
COUNSEL
DIVISION OF INVESTMENT MANAGEMENT

IM Ref. No. 20164111157
J.P. Morgan Securities LLC

In your letter dated April 14, 2016, you request assurance that the staff of the Division of Investment Management would not recommend enforcement action to the Securities and Exchange Commission under Section 206(3) of the Investment Advisers Act of 1940 (the "Advisers Act") if the Advisers (as defined below) and their affiliates that are registered with the Commission as broker-dealers ("broker-dealer affiliates") purchase fractional shares from certain advisory client accounts in the manner described in your letter.

Background

You state that J.P. Morgan Securities LLC and certain of its affiliates are registered with the Commission as investment advisers (collectively, the "Advisers") and that the Advisers exercise investment discretion over various client accounts through which client assets are invested in securities. You state that advisory clients who hold exchange-traded equity securities in their accounts may sometimes receive interests that represent the right to receive the value of a fraction of a share ("fractional shares").

[1] You state further that such fractional shares are not issued by the issuer but rather are account entries meant to represent the portion of a whole share (held by a broker or another party) that an accountholder would be entitled to (including ongoing appreciation and depreciation) if fractional shares could be traded in the marketplace.[2]

You propose that, if an Adviser determines to sell out of a client position consisting of whole shares and fractional shares, the Adviser or a broker-dealer affiliate would purchase the fractional shares from the client on the same day and at the same price as the whole shares are sold. Alternatively, if the whole shares are transferred out of the client's account as a result of an event other than a sale, the Adviser or its broker-dealer affiliate would purchase the fractional shares from the client at that day's market closing price.[3] You state that, because fractional shares cannot be sold in the open market, there are limited, if any, alternatives to your proposed approach.

Analysis

Section 206(3) of the Advisers Act makes it unlawful for any investment adviser, directly or indirectly:

acting as principal for his own account, knowingly to sell any security to or purchase any security from a client... without disclosing to such client in writing before the completion of such transaction the capacity in which he is acting and obtaining the consent of the client to such transaction.

If the Adviser to a client, or another Adviser or broker-dealer affiliate that controls, is controlled by, or is under common control with that Adviser, purchases a fractional share as described above, such purchase could be considered to violate Section 206(3) unless the Adviser complies with that Section's disclosure and consent requirements. [4].

Section 206(3) is intended to address the potential for self-dealing that can arise when an investment adviser acts as principal in a transaction with a client, such as through price manipulation. [5] In adopting Section 206(3), Congress chose not to prohibit advisers from engaging in principal transactions entirely but rather to impose disclosure and consent requirements. You state that the purchase of fractional shares as described in your letter does not present the price manipulation risk that Section 206(3) was designed to address because such purchases would be made at the market price for the corresponding whole shares. For this reason, you conclude that complying with the disclosure and consent requirements of Section 206(3) for these purchases would place a disproportionate burden on the Advisers and their clients. [6].

Conclusion

Based on the facts presented, we would not recommend enforcement action to the Commission under Section 206(3) of the Advisers Act if the Advisers and their broker-dealer affiliates purchase fractional shares from clients in the manner described in your letter. [7] In particular, our position is based on your representations that:

- The value of the fractional shares would be immaterial (i) with respect to each applicable client and (ii) with respect to the Advisers and their broker-dealer affiliates. [8].
- In connection with a sale of the corresponding whole shares, the Adviser or its broker-dealer affiliate will purchase fractional shares on the same day and at same price as the whole shares. In connection with an event other than a sale, the Adviser or its broker-dealer affiliate will purchase fractional shares at that day's market closing price.
- Neither the Advisers nor their broker-dealer affiliates will receive any commission or other compensation in connection with the purchase of fractional shares.
- Because the purchase of fractional shares will always be connected to the ordinary course sale or transfer of the related whole shares held in the client's account, the Advisers will not separately determine the timing of the principal transaction.
- The Adviser will disclose to clients in advance the practice of purchasing fractional shares either in a separate disclosure document, the advisory agreement or the Adviser's Form ADV. Such purchases will also be reflected on the clients' trade confirmation and account statements, and will be identified as principal trades.

Any different facts or representations may require a different conclusion. This response expresses our position on enforcement action only and does not represent any legal conclusion on the issue presented.

David J. Marcinkus
Branch Chief

[1] With respect to fractional shares of investment companies, relief is requested only with respect to (i) open-end companies registered under the Investment Company Act of 1940 (the "Act") that operate as exchange-traded funds and are not advised by an Adviser and (ii) closed-end companies that are either registered under the Act or have elected to be treated as business development companies under the Act and are not advised by an Adviser. Relief is not requested with respect to fractional shares of any other investment company.

[2] You explain that fractional shares may occur as result of several types of events, including the transfer of an account from another investment adviser to an Adviser, or the division of an account into multiple accounts.

[3] You state that a transfer other than a sale may occur as a result of, for example, the closing of the account and transfer of the shares to a brokerage account or the separation of an account into two accounts due to divorce. For a discussion of what constitutes a sale within the meaning of Section 206(3), see Goldman Sachs & Company, SEC Staff No-Action Letter (pub. avail. Feb. 22, 1999).

[4] See *In re Gintel Asset Mgmt.*, Investment Advisers Act Release No. 2079 (Nov. 8, 2002); *In re Credit Suisse Asset Mgmt., Inc.*, Investment Advisers Act Release No. 1452 (Nov. 16, 1994); *In re Concord Investment Co.*, Investment Advisers Act Release No. 1585 (Sept. 27, 1996); and *Interplan Securities Corp.*, SEC Staff No-Action Letter (pub. avail. Feb. 23, 1978). See also Interpretation of Section 206(3) of the Investment Advisers Act of 1940, Investment Advisers Act Release No. 1732 (July 17, 1998) at n. 3 (Section 206(3) applies to certain principal or agency transactions engaged in, or effected by, a broker-dealer that controls, is controlled by, or is under common control with, an investment adviser).

[5] See Investment Trusts and Investment Companies: Hearings on S. 3580 Before the Subcomm. of the Comm. on Banking and Currency, 76th Cong., 3d Sess. 320-22 (1940). Section 206(3) is also intended to address the potential for the dumping of unwanted securities into a client's account. *Id.* Your proposal does not raise dumping concerns because clients would not be purchasing securities from the Advisers or their broker-dealer affiliates.

[6] You also observe that rules 152a and 236 under the Securities Act of 1933, which address registration under that Act for certain offerings related to fractional interests, reflect the Commission's recognition that fractional shares warrant different treatment from whole shares under the federal securities laws.

[7] We note, however, that these transactions would be subject to the general antifraud provisions of Sections 206(1) and (2) of the Advisers Act.

[8] We note that fractional shares are not necessarily immaterial in value. For example, some individual securities trade with market prices in the thousands of dollars, and fractional interests in such securities may have substantial value. Our position, as described herein, would not extend to the purchase of fractional shares that have material value to the applicable client or, in the aggregate, to the Adviser or the broker-dealer affiliate purchasing the fractional shares.

Incoming Letter

The [Incoming Letter](#) is in [Acrobat](#) format.

FOR DISCUSSION ONLY

Davis Polk

Nora M. Jordan

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**Advisers Act
Section 206(3)**

**CONFIDENTIAL TREATMENT REQUESTED BY
J.P. MORGAN SECURITIES LLC**

April 14, 2016

Mr. Douglas J. Scheidt
Chief Counsel
Office of Chief Counsel
Division of Investment Management
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Request for no-action relief: Section 206(3) and fractional shares

Dear Mr. Scheidt:

On behalf of J.P. Morgan Securities LLC ("JPMS"), we respectfully request that the staff (the "Staff") of the Division of Investment Management of the Commission advise us that the Staff will not recommend Commission enforcement action under Section 206(3) of the Investment Advisers Act of 1940, as amended (the "Advisers Act"), against JPMS or certain of its affiliates that are broker-dealers registered with the Commission ("broker-dealer affiliates"), if JPMS and the broker-dealer affiliates purchase fractional shares (as defined below) from advisory client accounts as described below.

1. Factual Background

JPMS is a wholly-owned subsidiary of JPMorgan Chase & Co., a publicly-held financial services holding company. JPMS is registered with the Commission as both a broker-dealer and investment adviser. Certain JPMS affiliates are also registered as investment advisers with the Commission (together with JPMS, each an "Adviser" and together the "Advisers"). The Advisers' investment advisory services include managing and exercising investment discretion over client accounts, through which the assets of their clients are invested in individual securities (as well as other instruments such as mutual funds and ETFs).

Mr. Douglas J. Scheidt
Securities and Exchange Commission

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April 14, 2016

During the ordinary course of the Advisers' advisory services, their clients who hold exchange-traded equity securities in their accounts may sometimes receive interests which represent the right to receive the value of a fraction of a share (*i.e.* less than one full share) of equity ownership (such interests, "fractional shares" or "fractional interests").¹ Fractional shares are not issued by the issuer but rather are account entries meant to represent the portion of a whole share (held by a broker or another party) that an accountholder would be entitled to (including ongoing appreciation and depreciation) if fractional shares existed and could be traded in the marketplace. Fractional shares might occur as result of a transfer of an account with a fractional interest from a third party adviser, division of an account into multiple accounts (*e.g.* due to divorce) or where an Adviser is sponsor of a wrap program and a third party manager in the program deposits a fractional share into the wrap account. When it is time to sell the fractional share the Advisers must find an appropriate way to monetize the fractional share on behalf of the client in light of the fact that fractional shares are not supported in the market (*i.e.* fractional shares cannot be sold in the open market).

If the Adviser or one of its broker-dealer affiliates as an accommodation to a client purchases fractional shares from the client, the purchase from the client could be considered to violate Section 206(3) unless written disclosure is made and client consent is obtained on a transaction-by-transaction basis. However, given how irregularly fractional interests are received, how immaterial the monetary value of such interests is compared to a client's overall holdings, and that there is no potential for abuse and no risk of price manipulation for such principal sale transactions, transaction-by-transaction disclosure and consent appears unnecessary and is impractical and would place a disproportionate burden on the Advisers and their clients.²

2. Request for Relief

The Advisers propose that, as an accommodation to clients, when an account holds a fractional share and the Adviser decides to sell out of a position consisting of whole shares and fractional shares, the fractional shares will be purchased from the client by the Adviser or its broker-dealer affiliate on the same day and at the same price as the whole shares and if the whole shares are transferred out of the account via journal as a result of a non-sale event (*e.g.* closing of the managed account and transferring the shares to a brokerage account or the separation of an account into two accounts due to divorce), the fractional share will be sold to the Adviser or its broker-dealer affiliate using the same day's market closing price.

¹ With respect to fractional shares of investment companies, relief is requested only with respect to (i) open-end companies registered under the Investment Company Act of 1940 (the "Act") that operate as exchange-traded funds and are not advised by an Adviser and (ii) closed-end companies that are either registered under the Act or have elected to be treated as business development companies under the Act and are not advised by an Adviser. Relief is not requested with respect to fractional shares of any other investment company.

² Application of Section 206(3) assumes that a fractional share is a security.

Mr. Douglas J. Scheidt
Securities and Exchange Commission

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April 14, 2016

The Adviser will charge no commission or other compensation in connection with the purchase and the Adviser will disclose to clients the practice of purchasing fractional shares from clients (either via a separate disclosure document or in their advisory agreement or Form ADV).

3. Analysis

Section 206(3) of the Advisers Act prohibits an investment adviser from "acting as principal for his own account, knowingly to sell any security to or purchase any security from a client, or acting as broker for a person other than such client, knowingly to effect any sale or purchase of any security for the account of such client, without disclosing to such client in writing before the completion of such transaction the capacity in which he is acting and obtaining the consent of the client to such transaction." Section 206(3) imposes a prior written consent requirement on any investment adviser that acts as principal in a transaction with a client, and is intended to address the potential for conflicts between the interests of the adviser and the client and the risk of self-dealing by the adviser.³

We believe that the purchase of fractional interests in the manner described above will not raise the conflicts of interests and self-dealing issue that Section 206(3) was meant to address. We note in that regard that (i) the price of the fractional interests will be determined by the market; (ii) the value of fractional interests received are expected to be immaterial with respect to each applicable client and with respect to the Advisers and their broker-dealer affiliates; (iii) the purchases of fractional interests are being done as an accommodation to clients and as part of the Advisers' ordinary-course advisory services; (iv) because the purchase of fractional shares will always be connected to the ordinary-course sale or transfer of the related whole shares in the client's account, the Advisers and their broker-dealer affiliates will not separately determine the timing of the principal transaction; (v) there are limited, if any, alternatives to the Advisers or their broker-dealer affiliates buying the fractional interests due to the illiquid nature of fractional interests; (vi) clients will be provided clear disclosure about the arrangements with respect to fractional interests; (vii) the Advisers and their broker-dealer affiliates will not benefit from purchase transactions involving fractional interests because the price paid for fractional interests will be equivalent to the market price of the respective full interests and the Advisers and their broker-dealer affiliates will not receive any transaction-based compensation in connection with the purchase; and (viii) such transactions and the principal sale nature of such transactions will be reflected on the trade confirmation and on each applicable client's account statement.

We believe that the proposed arrangement of providing prior written disclosure to investment advisory clients about the treatment of fractional shares together with the protective conditions outlined above, does not present the potential for conflicts of interests and risk of self-dealing that Section 206(3) was intended to address, is consistent with the Advisers' fiduciary duty and with the best interests of their clients, and meets the investor protection

³ See Interpretation of Section 206(3) of the Investment Advisers Act of 1940, Advisers Act Release No. 1732 (July 17, 1998).

Mr. Douglas J. Scheidt
Securities and Exchange Commission

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April 14, 2016

objectives and satisfies the purposes of Section 206(3) of the Advisers Act. We also note that Rule 152a and Rule 236⁴ under the Securities Act of 1933, as amended, exclude fractional shares from registration requirements and appear to indicate the Commission's recognition that fractional shares warrant different treatment than whole shares under the Federal securities laws.

For the foregoing reasons, we respectfully request that the Staff advise us that the Staff will not recommend Commission enforcement action against the Advisers or their broker-dealer affiliates if it proceeds as described above.

Thank you for your help with this matter. Please do not hesitate to call me at (212) 450-4684 if you need more information or have questions concerning this request.

Very truly yours,



Nora M. Jordan

bcc: Dawn Blankenship
Assistant Regional Director
Office of Compliance Inspections and Examinations

⁴ Rule 152a provides a safe harbor for offers or sales of fractional interests to fall within the exemption from registration by Section 4(a)(1) of the Securities Act. Rule 236 also provides an exemption from Securities Act registration for aggregation of fractional shares in connection with certain transactions.