Suit: Charles Schwab used 'cash sweeps' for $22B TD Ameritrade acquisition

By **Dan Shaw** August 30, 2024, 1:04 p.m. EDT 4 Min Read

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A lawsuit against Charles Schwab accuses the firm of not keeping customers in the loop about its plans to use its "cash sweeps" policies to pay for its acquisition of TD Ameritrade.

The suit comes as the latest filing in a series of putative class actions accusing large wealth managers of not looking out for their clients' best interests with their handling of uninvested cash and not making required disclosures. But the suit against Schwab, filed Wednesday in federal court in Los Angeles, goes a step further and accuses the firm of using money raised from its sweeps policies to help finance its purchase of TD Ameritrade in 2020 for $22 billion.

"Cash sweeps" refers to firms' general practice of moving uninvested cash clients hold in brokerage or advisory accounts over to banks where it can be invested or lent out. The recent rash of suits over the polices accuses wealth managers of keeping the lion's share of the resulting returns for themselves and allowing very little to flow back to investors.

Among the banks Schwab moved clients' uninvested cash to, according to the suit, were two subsidiaries of TD Bank Group, the former owner of TD Ameritrade. The suit alleges that Schwab, without telling investors, reached an

agreement to maintain at least $50 billion in sweeps cash at TD Bank and TD Bank USA through June 2031.

"The substantial financial benefits conferred to TD Bank Group pursuant to this agreement involving [Charles Schwab's] customers' cash were part of the consideration," that the firm agreed to pay for its "acquisition of TD Ameritrade Holding Corporation from TD Bank Group," according to the suit.

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'Unsound, copycat lawsuit'

Schwab responded to what it deemed an "unsound, copycat lawsuit" by saying "allegations aren't facts." Like many firms, Schwab contends its cash sweeps policies benefit clients by allowing them to temporarily hold their uninvested cash in accounts offering protection by the Federal Insurance Deposit Corp. The FDIC guarantees up to $250,000 held in individual bank accounts.

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"When clients choose a self-directed approach, they have full control over their assets and cash management decisions," a Schwab spokesperson said. "That means they have access to a wide range of cash solutions and information to help them choose the solutions that best fit their individual needs. Our offerings provide safety and liquidity to meet everyday cash needs, and our clients value the option of FDIC insurance protection combined with convenient access to their cash."

The spokesperson also denied that it hadn't properly informed clients of its policies.

"If you would like to know more about our bank sweep and cash offerings, please read our disclosures," the spokesperson said. "It's evident that these plaintiffs' lawyers did not."

Other suits

Beyond the allegations related to the purchase of TD Ameritrade, the suit against Schwab makes many of the same accusations found in other recent legal actions over wealth managers' sweeps policies. The firms suing Schwab — Berger Montague of Philadelphia and Rosca Scarlato of Beachwood, Ohio — also have putative class actions filed against Wells Fargo, LPL Financial and Ameriprise.

All the lawsuits allege wealth managers violated their fiduciary duty to put their clients' interests first. Their sweeps programs, according to the suits, were set up primarily to benefit the firms themselves and their affiliated banks rather than investors. The suits also accuse wealth managers of failing to properly disclose exactly how their sweeps policies work.

"We plan to hold those brokerage firms accountable and seek compensation on behalf of investors for the firms' use of their customers' cash, which we believe was improper and not in those customers' best interest," said Alan Rosca, managing partner at Rosca Scarlato.

Like all the recent sweeps lawsuits, this new one against Charles Schwab was filed on behalf of individually named plaintiffs. In this case, it was a Colorado resident named Mary Loughran, an Ohio resident named Rosemary Orlando and a Pennsylvania resident named Edward Carr — all of them former Schwab customers. But also like the other recent suits, the one against Schwab seeks class-action status to bring similar claims on behalf of more clients allegedly harmed in the same way.

A separate group of firms, consisting of lawyers from Simmons Hanly Conroy of San Francisco, Williams Dirks Dameron of Kansas City and Oakes & Fosher of St. Louis, is meanwhile pressing suits against Morgan Stanley, UBS, LPL, Wells Fargo, Ameriprise and Raymond James. And yet another firm, Gibbs Law Group in Oakland, California, is pursuing much the same strategy in the third sweeps-related suit filed so far against Wells Fargo. Gibbs is also working with Berger Montague on another suit directed at Ameriprise, filed on behalf of a California resident named Mark Frey.