

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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Form 19b-4 Information

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”), the National Association of Securities Dealers, Inc. (“NASD”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend NASD Rule 6250 of the Trade Reporting and Compliance Engine (“TRACE”) rules to disseminate immediately upon receipt transaction information on TRACE-eligible securities, except transactions effected pursuant to Rule 144A under the Securities Act of 1933 (“Securities Act”) (“Rule 144A transactions”). Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

6250. Dissemination of Transaction Information

(a) Dissemination

NASD will disseminate information on all transactions in TRACE-eligible securities immediately upon receipt of the transaction report, except as provided below.

(b) Rule 144A Securities

NASD will not disseminate information on a transaction in a TRACE-eligible security that is effected pursuant to Rule 144A under the Securities Act of 1933.

[(a) Dissemination of New Issue Aftermarket Transactions]

[(1) Transaction information for TRACE-eligible securities rated by an NRSRO or classified by NASD for purposes of TRACE as BBB (or the equivalent rating of one or more NRSROs) executed during the period beginning

the day a newly issued security is priced and lasting two business days ("New Issue Aftermarket-2") will not be disseminated during the New Issue Aftermarket-2. NASD will disseminate transaction information for transactions executed during the New Issue Aftermarket-2 starting on the next (third) business day, according to dissemination protocols established by NASD.]

[(2) Transaction information for TRACE-eligible securities rated by an NRSRO or classified by NASD for purposes of TRACE as BB (or the equivalent rating of one or more NRSROs) or lower executed during the period beginning the day a newly issued security is priced and lasting 10 business days ("New Issue Aftermarket-10") will not be disseminated during the New Issue Aftermarket-10. NASD will disseminate transaction information for transactions executed during the New Issue Aftermarket-10 starting on the next (eleventh) business day, according to dissemination protocols established by NASD.]

[(b) Dissemination of Secondary Market Transactions]

[(1) Immediate Dissemination. NASD will disseminate transaction information immediately upon receipt of a transaction report, if the report is for a transaction:]

[(A) In a TRACE-eligible security rated by an NRSRO or classified by NASD for purposes of TRACE above BBB (or the equivalent rating of one or more NRSROs); or]

[(B) In a TRACE-eligible security rated by an NRSRO or classified

by NASD for purposes of TRACE as BBB (or the equivalent rating of one or more NRSROs) executed other than during the New Issue Aftermarket-2; or,]

[(C) In a TRACE-eligible security rated by an NRSRO or classified by NASD for purposes of TRACE as BB (or the equivalent rating of one or more NRSROs) or lower executed other than during the New Issue Aftermarket-10 if:]

[(i) the size of the transaction is \$1 million or less (par value); or]

[(ii) the size of the transaction is greater than \$1 million (par value), and the TRACE-eligible security is traded (a) an average of one or more times per day, during the New Issue Aftermarket-10; and (b) thereafter, an average of one or more times per day over the last 20 business days of a 90-day period determined each quarter by NASD. Such security shall remain subject to immediate dissemination until such 90-day period in which the security fails to meet the condition set forth in this subparagraph (C)(ii)(b), in which case it shall be subject to a two- or four-business day delayed dissemination, as applicable.]

[(2) Two- or Four-Business-Day Delayed Dissemination. For transactions in a TRACE-eligible security rated by an NRSRO or classified by NASD for purposes of TRACE as BB (or the equivalent rating of one or more NRSROs) or lower executed other than during the New Issue Aftermarket-10, NASD will

disseminate transaction information on a two- or four-business-day delayed basis from the time of execution as follows:]

[(A) Two-Business-Day Delay. In a TRACE-eligible security rated by an NRSRO or classified by NASD for purposes of TRACE as BB (or the equivalent rating of one or more NRSROs) if:]

[(i) the size of the transaction is greater than \$1 million (par value); and]

[(ii) the security is traded (a) an average of less than one time per day, during the New Issue Aftermarket-10; and (b) thereafter, an average of less than one time per day over the last 20 business days of a 90-day period determined each quarter by NASD. Such security shall remain subject to a two-business day delayed dissemination until such 90-day period in which the security fails to meet the condition set forth in this subparagraph (A)(ii)(b), in which case it shall be subject to immediate dissemination.]

[(B) Four-Business-Day Delay. In a TRACE-eligible security rated by an NRSRO or classified by NASD for purposes of TRACE as B (or the equivalent rating of one or more NRSROs) or lower if:]

[(i) the size of the transaction is greater than \$1 million (par value) and;]

[(ii) the security is traded (a) an average of less than one time per day, during the New Issue Aftermarket-10; and (b) thereafter, an average of less than one time per day over the last 20 business days of a 90-day period determined each quarter by NASD. Such security shall remain subject to a four-business day delayed dissemination until such 90-day period in which the security fails to meet the condition set forth in this subparagraph (B)(ii)(b), in which case it shall be subject to immediate dissemination.]

[(c) Rule 144A]

[NASD will not disseminate information on a transaction in a TRACE-eligible security that is issued pursuant to Section 4(2) of the Securities Act of 1933 and resold pursuant to Rule 144A under the Securities Act of 1933.]

[(d) Dissemination of Transaction Information for Certain Non-Investment Grade TRACE-Eligible Securities]

[Until such time as the effective date of (1) Rule 6250(a), (2) the portion of proposed Rule 6250(b)(1)(C)(i) not effective as of October 1, 2004, and (3) Rule 6250(b)(2) (being the effective date of "Stage Two"), information for transactions in Non-Investment Grade TRACE-eligible securities that were subject to dissemination under the Rule 6200 Series prior to October 1, 2004, but that do not meet the frequency standards set forth in Rule 6250(b)(1)(C)(ii), will continue to be disseminated immediately upon receipt of the transaction report. Following the effective date of Stage

Two, dissemination of such securities will be subject to all provisions of the Rule 6200 Series then in effect, at which time this paragraph (d) of Rule 6250 shall automatically expire by its own terms.]

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Board of Governors of NASD at its meeting on September 22, 2005, which authorized the filing of the rule change with the SEC. No other action by NASD is necessary for the filing of the proposed rule change. Section 1(a)(ii) of Article VII of the NASD By-Laws permits the Board of Governors of NASD to adopt amendments to NASD Rules without recourse to the membership for approval.

NASD will announce the effective date of the proposed rule change in a Notice to Members to be published no later than 30 days following Commission approval. The effective date will be not more than 30 days following publication of the Notice to Members announcing Commission approval.

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

NASD is proposing to amend Rule 6250 to eliminate all delays in the dissemination of information on transactions in TRACE-eligible securities (“TRACE information”). The proposed amendments to Rule 6250 provide that TRACE information

on all transactions, except on Rule 144A transactions, be disseminated immediately upon receipt of the transaction report. The proposed rule change represents the last stage of a series of NASD regulatory actions to gradually increase transparency, by phases, for all transactions in TRACE-eligible securities, except Rule 144A transactions, for the benefit of all market participants.¹ The proposed amendments also meet the Commission's expectations as set forth in its September 2004 approval order for the third phase of TRACE dissemination ("Phase III") ("Phase III Approval Order").² In the Phase III Approval Order, the Commission stated that it expected NASD to submit a proposal eliminating the remaining delays in TRACE information dissemination not later than November 1, 2005.

Background

Prior to the approval of the initial TRACE Rule 6200 Series, NASD structured TRACE to phase in the dissemination of TRACE information gradually. As of July 1, 2002, when TRACE became operational, it was agreed that public dissemination of TRACE information on these corporate bond transactions would be implemented over three phases.³

¹ Information on Rule 144A transactions in TRACE-eligible securities is not disseminated because securities sold pursuant to Rule 144A are subject to restrictions on transfer and are not freely tradable in the public secondary market.

² See Securities Exchange Act Release No. 50317 (September 3, 2004), 69 FR 55202 (September 13, 2004) (order approving SR-NASD-2004-094).

³ NASD proposed that dissemination of TRACE information be implemented in phases as the TRACE Rules were developed. See Securities Exchange Act Release No. 43873 (January 23, 2001), 66 FR 8131 (January 29, 2001) (order approving SR-NASD-99-065, NASD's proposed rules creating TRACE, the

Bond Transaction Reporting Committee. In addition, before TRACE became operational on July 1, 2002, NASD formed the Bond Transaction Reporting Committee (“BTRC”) to advise NASD on liquidity issues and how dissemination of TRACE information should be increased over time to improve transparency in the corporate bond market.⁴ The BTRC reviewed TRACE statistical data and econometric analyses as well as other information prior to developing recommendations for improving and broadening TRACE transparency. The increases in transparency that took place in Phases II and III, as discussed in greater detail below, as well as this final phase providing for full immediate dissemination of TRACE information on all transactions, except Rule 144A transactions, were recommended by the BTRC.

Phase I. During Phase I, which began on July 1, 2002, TRACE information (except on Rule 144A transactions) was disseminated immediately for the larger and generally higher-credit quality issues -- Investment Grade debt securities having an initial issue of \$1 billion or greater -- and 50 Non-Investment Grade (“high-yield”) securities disseminated under the Fixed Income Pricing System (“FIPS”) that were transferred to

corporate bond trade reporting and transaction dissemination facility) (“SEC 2001 Approval Order”). In the SEC 2001 Approval Order, the SEC discussed and approved the NASD’s proposal to increase transparency in the three phases. 66 FR 8131, 8133.

⁴ The role and composition of the BTRC is explained fully in the SEC 2001 Approval Order at 66 FR 8131, 8133.

TRACE.⁵ Under these criteria, NASD disseminated TRACE information on approximately 550 securities by the end of 2002.

Phase II. The SEC approved the Phase II proposal on January 31, 2003.⁶ Phase II dissemination expanded the universe of transparent transactions to include all transactions (except Rule 144A transactions) in the following two groups of Investment Grade securities: (1) any TRACE-eligible security that is Investment Grade (*i.e.*, is rated by Moody's⁷ as "A3" or higher, and by S&P's⁸ as "A-" or higher) and has an original

⁵ The terms "Investment Grade" and "Non-Investment Grade" as used herein are defined, respectively, in Rule 6210(h) and Rule 6210(i) of the TRACE Rules. The FIPS 50 were 50 Non-Investment Grade securities designated under the now rescinded FIPS Rules for limited price dissemination.

⁶ Securities Exchange Act Release No. 47302 (January 31, 2003), 68 FR 6233 (February 6, 2003) (order approving SR-NASD-2002-174, the Phase II proposal). On March 17, 2003, NASD proposed minor modifications to the Phase II proposal, which were effective upon filing. Securities Exchange Act Release No. 47566 (March 25, 2003), 68 FR 15490 (March 31, 2003) (notice of filing and immediate effectiveness of SR-NASD-2003-41).

⁷ Moody's Investors Service, Inc. ("Moody's") is a nationally recognized statistical rating organization ("NRSRO"). Moody's is a registered trademark of Moody's Investors Service. Moody's ratings are proprietary to Moody's and are protected by copyright and other intellectual property laws. Moody's licenses ratings to NASD. Ratings may not be copied or otherwise reproduced, repackaged, further transmitted, transferred, disseminated, redistributed or resold, or stored for subsequent use for any purpose, in whole or in part, in any form or manner or by any means whatsoever, by any person without Moody's prior written consent.

⁸ Standard & Poor's, a division of the McGraw-Hill Companies, Inc. ("S&P"), is an NRSRO. S&P's ratings are proprietary to S&P and are protected by copyright and other intellectual property laws. S&P's licenses ratings to NASD. Ratings may not be copied or otherwise reproduced, repackaged, further transmitted, transferred, disseminated, redistributed or resold, or stored for subsequent use for any purpose, in whole or in part, in any form or manner or by any means whatsoever, by any person without S&P's prior written consent.

issue size of \$100 million or greater (“Single A Transactions”); and (2) 120 TRACE-eligible securities rated “Baa/BBB” at the time of designation, with the bonds being identified in three subgroups to represent the “Baa/BBB” credit spectrum (*i.e.*, “Baa1/BBB+,” “Baa2/BBB,” and “Baa3/BBB-”) (“Triple B Transactions”).⁹ In addition, dissemination would continue with respect to the Investment Grade bonds and the group of 50 liquid Non-Investment Grade TRACE-eligible securities subject to dissemination during Phase I.

Phase II was implemented in two stages. On March 3, 2003, NASD began disseminating TRACE information on the Single A Transactions, and, on April 17, 2003, NASD began disseminating TRACE information on the Triple B Transactions. As Phase II was implemented, the number of disseminated bonds increased to approximately 4,200 bonds.

Phase III. The SEC approved NASD’s Phase III proposal on September 3, 2004.¹⁰ Phase III provided for immediate dissemination of TRACE information on all TRACE-eligible securities transactions (except on Rule 144A transactions) except for: (1) new issues rated Baa/BBB or below, which would be subject to delayed dissemination of up to two or ten business days immediately following issuance; and (2) larger transactions (over \$1 million) in Non-Investment Grade TRACE-eligible securities

⁹ Baa, Baa1, Baa2, and Baa3 are ratings of Moody’s; BBB+, BBB, and BBB- are ratings of S&P.

¹⁰ See Phase III Approval Order.

where the security traded, on average, less than one time per day over a specified period, which would be subject to delayed dissemination of two or four business days.

Phase III was implemented in two stages. Stage One was implemented on October 1, 2004, and TRACE information on substantially all TRACE-eligible securities transactions that were subject to immediate dissemination under the Phase III rule amendments began to be disseminated on that day. Stage Two, implementing dissemination of TRACE information on TRACE-eligible securities transactions subject to delayed dissemination, took effect on February 7, 2005. Under Phase III as fully implemented, approximately 99% of all transactions and 95% of par value in the TRACE-eligible securities market are disseminated immediately.

In its Phase III Approval Order, the SEC noted that the TRACE information dissemination delays for certain high yield transactions and new issue transactions rated Baa/BBB or below “may unnecessarily restrict the availability of this transaction information to investors in this market.”¹¹ Moreover, the Commission noted that two studies commissioned by NASD to address the relationship between transparency and liquidity “found no conclusive evidence that TRACE transparency has adversely affected liquidity.”¹² (footnote omitted) “Accordingly, the Commission expects that, not later than November 1, 2005 (nine months after the effective date of Stage Two), the NASD

¹¹ Phase III Approval Order, 69 FR 55202, 55204.

¹² Id.

will submit a proposed rule change eliminating the delays in TRACE information dissemination.”¹³

BTRC Recommendations Regarding Proposed Rule Change. In its Phase III proposed rule filing, NASD stated that it intended to review the trading and liquidity in TRACE-eligible securities during the implementation of Stages One and Two of Phase III.¹⁴ In addition, as part of this review process, NASD stated that not later than nine months from Stage Two implementation, NASD would ask the BTRC to reconvene to review the rule and make recommendations to the NASD Board of Governors. Consistent with this stated intention, after Phase III was fully implemented, the BTRC met several times to review TRACE statistical data, econometric analyses and other information, and to discuss the impact of Phase III transparency on liquidity in the corporate bond market. As a result of this review process, neither the BTRC nor NASD found conclusive evidence that Phase III transparency adversely affected corporate bond market liquidity. On September 12, 2005, the BTRC recommended that information on all transactions in TRACE-eligible securities, except Rule 144A transactions, be disseminated immediately upon NASD’s receipt of the transaction report. In addition, the BTRC recommended that NASD and the SEC continue to monitor the part of the fixed income market made up of transactions in TRACE-eligible securities and, if NASD or the SEC identify evidence that immediate dissemination has a negative impact on the

¹³ Id.

¹⁴ Phase III Approval Order, 69 FR 55202, 55203.

liquidity of the fixed income markets, the BTRC encourages NASD and the SEC to reconsider immediate dissemination of TRACE information.

Proposed Rule Change

Based on NASD's experience with TRACE of more than three years, specifically the experience gained from its measured, gradual implementation of full transparency, it is NASD's strong belief that immediate dissemination of TRACE information on all TRACE transactions, except Rule 144A transactions, is warranted. This belief is consistent with the BTRC's recommendation of September 12, 2005 as well as the Commission's expectation set forth in the Phase III Approval Order. Accordingly, NASD proposes that TRACE information on *all* transactions in TRACE-eligible securities, except Rule 144A transactions, be disseminated immediately upon receipt of the transaction report. In addition, NASD intends to continue to monitor the effects of transparency on the corporate bond market.

As noted in Item 2 of this filing, NASD will announce the effective date of the proposed rule change in a Notice to Members to be published no later than 30 days following Commission approval. The effective date will be not later than 30 days following publication of the Notice to Members announcing Commission approval.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that NASD rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public

interest. NASD believes that the proposed rule change will improve transparency in the corporate debt market and facilitate price discovery for the benefit of investors and all participants in the debt securities markets in furtherance of the public interest and for the protection of investors.

4. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

6. Extension of Time Period for Commission Action

NASD does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Exhibits

Exhibit 1. Completed notice of proposed rule change for publication in the Federal Register.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-NASD-2005-120)

SELF-REGULATORY ORGANIZATIONS

Proposed Rule Change by National Association of Securities Dealers, Inc.
Relating to Dissemination of Information on TRACE-Eligible Securities Transactions

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on [leave space] , the National Association of Securities Dealers, Inc. (“NASD”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to amend Rule 6250 of the Trade Reporting and Compliance Engine (“TRACE”) rules to disseminate immediately upon receipt transaction information on TRACE-eligible securities, except transactions effected pursuant to Rule 144A of the Securities Act of 1933 (“Securities Act”) (“Rule 144A transactions”). Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

* * * * *

6250. Dissemination of Transaction Information

(a) Dissemination

NASD will disseminate information on all transactions in TRACE-eligible securities immediately upon receipt of the transaction report, except as provided below.

(b) Rule 144A Securities

NASD will not disseminate information on a transaction in a TRACE-eligible security that is effected pursuant to Rule 144A under the Securities Act of 1933.

[(a) Dissemination of New Issue Aftermarket Transactions]

[(1) Transaction information for TRACE-eligible securities rated by an NRSRO or classified by NASD for purposes of TRACE as BBB (or the equivalent rating of one or more NRSROs) executed during the period beginning the day a newly issued security is priced and lasting two business days ("New Issue Aftermarket-2") will not be disseminated during the New Issue Aftermarket-2. NASD will disseminate transaction information for transactions executed during the New Issue Aftermarket-2 starting on the next (third) business day, according to dissemination protocols established by NASD.]

[(2) Transaction information for TRACE-eligible securities rated by an NRSRO or classified by NASD for purposes of TRACE as BB (or the equivalent rating of one or more NRSROs) or lower executed during the period beginning the day a newly issued security is priced and lasting 10 business days ("New Issue Aftermarket-10") will not be disseminated during the New Issue Aftermarket-10.

NASD will disseminate transaction information for transactions executed during the New Issue Aftermarket-10 starting on the next (eleventh) business day, according to dissemination protocols established by NASD.]

[(b) Dissemination of Secondary Market Transactions]

[(1) Immediate Dissemination. NASD will disseminate transaction information immediately upon receipt of a transaction report, if the report is for a transaction:]

[(A) In a TRACE-eligible security rated by an NRSRO or classified by NASD for purposes of TRACE above BBB (or the equivalent rating of one or more NRSROs); or]

[(B) In a TRACE-eligible security rated by an NRSRO or classified by NASD for purposes of TRACE as BBB (or the equivalent rating of one or more NRSROs) executed other than during the New Issue Aftermarket-2; or,]

[(C) In a TRACE-eligible security rated by an NRSRO or classified by NASD for purposes of TRACE as BB (or the equivalent rating of one or more NRSROs) or lower executed other than during the New Issue Aftermarket-10 if:]

[(i) the size of the transaction is \$1 million or less (par value); or]

[(ii) the size of the transaction is greater than \$1 million (par value), and the TRACE-eligible security is traded (a) an

average of one or more times per day, during the New Issue Aftermarket-10; and (b) thereafter, an average of one or more times per day over the last 20 business days of a 90-day period determined each quarter by NASD. Such security shall remain subject to immediate dissemination until such 90-day period in which the security fails to meet the condition set forth in this subparagraph (C)(ii)(b), in which case it shall be subject to a two- or four-business day delayed dissemination, as applicable.]

[(2) Two- or Four-Business-Day Delayed Dissemination. For transactions in a TRACE-eligible security rated by an NRSRO or classified by NASD for purposes of TRACE as BB (or the equivalent rating of one or more NRSROs) or lower executed other than during the New Issue Aftermarket-10, NASD will disseminate transaction information on a two- or four-business-day delayed basis from the time of execution as follows:]

[(A) Two-Business-Day Delay. In a TRACE-eligible security rated by an NRSRO or classified by NASD for purposes of TRACE as BB (or the equivalent rating of one or more NRSROs) if:]

[(i) the size of the transaction is greater than \$1 million (par value); and]

[(ii) the security is traded (a) an average of less than one time per day, during the New Issue Aftermarket-10; and (b) thereafter, an average of less than one time per day over the last 20

business days of a 90-day period determined each quarter by NASD. Such security shall remain subject to a two-business day delayed dissemination until such 90-day period in which the security fails to meet the condition set forth in this subparagraph (A)(ii)(b), in which case it shall be subject to immediate dissemination.]

[(B) Four-Business-Day Delay. In a TRACE-eligible security rated by an NRSRO or classified by NASD for purposes of TRACE as B (or the equivalent rating of one or more NRSROs) or lower if:]

[(i) the size of the transaction is greater than \$1 million (par value) and;]

[(ii) the security is traded (a) an average of less than one time per day, during the New Issue Aftermarket-10; and (b) thereafter, an average of less than one time per day over the last 20 business days of a 90-day period determined each quarter by NASD. Such security shall remain subject to a four-business day delayed dissemination until such 90-day period in which the security fails to meet the condition set forth in this subparagraph (B)(ii)(b), in which case it shall be subject to immediate dissemination.]

[(c) Rule 144A]

[NASD will not disseminate information on a transaction in a TRACE-eligible security that is issued pursuant to Section 4(2) of the Securities Act of 1933 and resold pursuant to Rule 144A under the Securities Act of 1933.]

[(d) Dissemination of Transaction Information for Certain Non-Investment Grade TRACE-Eligible Securities]

[Until such time as the effective date of (1) Rule 6250(a), (2) the portion of proposed Rule 6250(b)(1)(C)(i) not effective as of October 1, 2004, and (3) Rule 6250(b)(2) (being the effective date of "Stage Two"), information for transactions in Non-Investment Grade TRACE-eligible securities that were subject to dissemination under the Rule 6200 Series prior to October 1, 2004, but that do not meet the frequency standards set forth in Rule 6250(b)(1)(C)(ii), will continue to be disseminated immediately upon receipt of the transaction report. Following the effective date of Stage Two, dissemination of such securities will be subject to all provisions of the Rule 6200 Series then in effect, at which time this paragraph (d) of Rule 6250 shall automatically expire by its own terms.]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at

the places specified in Item IV below. NASD has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASD is proposing to amend Rule 6250 to eliminate all delays in the dissemination of information on transactions in TRACE-eligible securities (“TRACE information”). The proposed amendments to Rule 6250 provide that TRACE information on all transactions, except on Rule 144A transactions, be disseminated immediately upon receipt of the transaction report. The proposed rule change represents the last stage of a series of NASD regulatory actions to gradually increase transparency, by phases, for all transactions in TRACE-eligible securities, except Rule 144A transactions, for the benefit of all market participants.³ The proposed amendments also meet the Commission’s expectations as set forth in its September 2004 approval order for the third phase of TRACE dissemination (“Phase III”) (“Phase III Approval Order”).⁴ In the Phase III Approval Order, the Commission stated that it expected NASD to submit a proposal eliminating the remaining delays in TRACE information dissemination not later than November 1, 2005.

³ Information on Rule 144A transactions in TRACE-eligible securities is not disseminated because securities sold pursuant to Rule 144A are subject to restrictions on transfer and are not freely tradable in the public secondary market.

⁴ See Securities Exchange Act Release No. 50317 (September 3, 2004), 69 FR 55202 (September 13, 2004) (order approving SR-NASD-2004-094).

Background

Prior to the approval of the initial TRACE Rule 6200 Series, NASD structured TRACE to phase in the dissemination of TRACE information gradually. As of July 1, 2002, when TRACE became operational, it was agreed that public dissemination of TRACE information on these corporate bond transactions would be implemented over three phases.⁵

Bond Transaction Reporting Committee. In addition, before TRACE became operational on July 1, 2002, NASD formed the Bond Transaction Reporting Committee (“BTRC”) to advise NASD on liquidity issues and how dissemination of TRACE information should be increased over time to improve transparency in the corporate bond market.⁶ The BTRC reviewed TRACE statistical data and econometric analyses as well as other information prior to developing recommendations for improving and broadening TRACE transparency. The increases in transparency that took place in Phases II and III, as discussed in greater detail below, as well as this final phase providing for full immediate dissemination of TRACE information on all transactions, except Rule 144A transactions, were recommended by the BTRC.

⁵ NASD proposed that dissemination of TRACE information be implemented in phases as the TRACE Rules were developed. See Securities Exchange Act Release No. 43873 (January 23, 2001), 66 FR 8131 (January 29, 2001) (order approving SR-NASD-99-065, NASD’s proposed rules creating TRACE, the corporate bond trade reporting and transaction dissemination facility) (“SEC 2001 Approval Order”). In the SEC 2001 Approval Order, the SEC discussed and approved the NASD’s proposal to increase transparency in the three phases. 66 FR 8131, 8133.

⁶ The role and composition of the BTRC is explained fully in the SEC 2001 Approval Order at 66 FR 8131, 8133.

Phase I. During Phase I, which began on July 1, 2002, TRACE information (except on Rule 144A transactions) was disseminated immediately for the larger and generally higher-credit quality issues -- Investment Grade debt securities having an initial issue of \$1 billion or greater -- and 50 Non-Investment Grade (“high-yield”) securities disseminated under the Fixed Income Pricing System (“FIPS”) that were transferred to TRACE.⁷ Under these criteria, NASD disseminated TRACE information on approximately 550 securities by the end of 2002.

Phase II. The SEC approved the Phase II proposal on January 31, 2003.⁸ Phase II dissemination expanded the universe of transparent transactions to include all transactions (except Rule 144A transactions) in the following two groups of Investment Grade securities: (1) any TRACE-eligible security that is Investment Grade (*i.e.*, is rated by Moody’s⁹ as “A3” or higher, and by S&P’s¹⁰ as “A-” or higher) and has an original

⁷ The terms “Investment Grade” and “Non-Investment Grade” as used herein are defined, respectively, in Rule 6210(h) and Rule 6210(i) of the TRACE Rules. The FIPS 50 were 50 Non-Investment Grade securities designated under the now rescinded FIPS Rules for limited price dissemination.

⁸ Securities Exchange Act Release No. 47302 (January 31, 2003), 68 FR 6233 (February 6, 2003) (order approving SR-NASD-2002-174, the Phase II proposal). On March 17, 2003, NASD proposed minor modifications to the Phase II proposal, which were effective upon filing. Securities Exchange Act Release No. 47566 (March 25, 2003), 68 FR 15490 (March 31, 2003) (notice of filing and immediate effectiveness of SR-NASD-2003-41).

⁹ Moody’s Investors Service, Inc. (“Moody’s”) is a nationally recognized statistical rating organization (“NRSRO”). Moody’s is a registered trademark of Moody’s Investors Service. Moody’s ratings are proprietary to Moody’s and are protected by copyright and other intellectual property laws. Moody’s licenses ratings to NASD. Ratings may not be copied or otherwise reproduced, repackaged, further transmitted, transferred, disseminated, redistributed or resold, or stored for

issue size of \$100 million or greater (“Single A Transactions”); and (2) 120 TRACE-eligible securities rated “Baa/BBB” at the time of designation, with the bonds being identified in three subgroups to represent the “Baa/BBB” credit spectrum (*i.e.*, “Baa1/BBB+,” “Baa2/BBB,” and “Baa3/BBB-”) (“Triple B Transactions”).¹¹ In addition, dissemination would continue with respect to the Investment Grade bonds and the group of 50 liquid Non-Investment Grade TRACE-eligible securities subject to dissemination during Phase I.

Phase II was implemented in two stages. On March 3, 2003, NASD began disseminating TRACE information on the Single A Transactions, and, on April 17, 2003, NASD began disseminating TRACE information on the Triple B Transactions. As Phase II was implemented, the number of disseminated bonds increased to approximately 4,200 bonds.

Phase III. The SEC approved NASD’s Phase III proposal on September 3, 2004.¹² Phase III provided for immediate dissemination of TRACE information on all

subsequent use for any purpose, in whole or in part, in any form or manner or by any means whatsoever, by any person without Moody’s prior written consent.

¹⁰ Standard & Poor’s, a division of the McGraw-Hill Companies, Inc. (“S&P”), is an NRSRO. S&P’s ratings are proprietary to S&P and are protected by copyright and other intellectual property laws. S&P’s licenses ratings to NASD. Ratings may not be copied or otherwise reproduced, repackaged, further transmitted, transferred, disseminated, redistributed or resold, or stored for subsequent use for any purpose, in whole or in part, in any form or manner or by any means whatsoever, by any person without S&P’s prior written consent.

¹¹ Baa, Baa1, Baa2, and Baa3 are ratings of Moody’s; BBB+, BBB, and BBB- are ratings of S&P.

¹² See Phase III Approval Order.

TRACE-eligible securities transactions (except on Rule 144A transactions) except for: (1) new issues rated Baa/BBB or below, which would be subject to delayed dissemination of up to two or ten business days immediately following issuance; and (2) larger transactions (over \$1 million) in Non-Investment Grade TRACE-eligible securities where the security traded, on average, less than one time per day over a specified period, which would be subject to delayed dissemination of two or four business days.

Phase III was implemented in two stages. Stage One was implemented on October 1, 2004, and TRACE information on substantially all TRACE-eligible securities transactions that were subject to immediate dissemination under the Phase III rule amendments began to be disseminated on that day. Stage Two, implementing dissemination of TRACE information on TRACE-eligible securities transactions subject to delayed dissemination, took effect on February 7, 2005. Under Phase III as fully implemented, approximately 99% of all transactions and 95% of par value in the TRACE-eligible securities market are disseminated immediately.

In its Phase III Approval Order, the SEC noted that the TRACE information dissemination delays for certain high yield transactions and new issue transactions rated Baa/BBB or below “may unnecessarily restrict the availability of this transaction information to investors in this market.”¹³ Moreover, the Commission noted that two studies commissioned by NASD to address the relationship between transparency and liquidity “found no conclusive evidence that TRACE transparency has adversely

¹³ Phase III Approval Order, 69 FR 55202, 55204.

affected liquidity.”¹⁴ (footnote omitted) “Accordingly, the Commission expects that, not later than November 1, 2005 (nine months after the effective date of Stage Two), the NASD will submit a proposed rule change eliminating the delays in TRACE information dissemination.”¹⁵

BTRC Recommendations Regarding Proposed Rule Change. In its Phase III proposed rule filing, NASD stated that it intended to review the trading and liquidity in TRACE-eligible securities during the implementation of Stages One and Two of Phase III.¹⁶ In addition, as part of this review process, NASD stated that not later than nine months from Stage Two implementation, NASD would ask the BTRC to reconvene to review the rule and make recommendations to the NASD Board of Governors. Consistent with this stated intention, after Phase III was fully implemented, the BTRC met several times to review TRACE statistical data, econometric analyses and other information, and to discuss the impact of Phase III transparency on liquidity in the corporate bond market. As a result of this review process, neither the BTRC nor NASD found conclusive evidence that Phase III transparency adversely affected corporate bond market liquidity. On September 12, 2005, the BTRC recommended that information on all transactions in TRACE-eligible securities, except Rule 144A transactions, be disseminated immediately upon NASD’s receipt of the transaction report. In addition, the BTRC recommended that NASD and the SEC continue to monitor the part of the

¹⁴ Id.

¹⁵ Id.

¹⁶ Phase III Approval Order, 69 FR 55202, 55203.

fixed income market made up of transactions in TRACE-eligible securities and, if NASD or the SEC identify evidence that immediate dissemination has a negative impact on the liquidity of the fixed income markets, the BTRC encourages NASD and the SEC to reconsider immediate dissemination of TRACE information.

Proposed Rule Change

Based on NASD's experience with TRACE of more than three years, specifically the experience gained from its measured, gradual implementation of full transparency, it is NASD's strong belief that immediate dissemination of TRACE information on all TRACE transactions, except Rule 144A transactions, is warranted. This belief is consistent with the BTRC's recommendation of September 12, 2005 as well as the Commission's expectation set forth in the Phase III Approval Order. Accordingly, NASD proposes that TRACE information on *all* transactions in TRACE-eligible securities, except Rule 144A transactions, be disseminated immediately upon receipt of the transaction report. In addition, NASD intends to continue to monitor the effects of transparency on the corporate bond market.

NASD will announce the effective date of the proposed rule change in a Notice to Members to be published no later than 30 days following Commission approval. The effective date will be not later than 30 days following publication of the Notice to Members announcing Commission approval.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that NASD rules must

be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change will improve transparency in the corporate debt market and facilitate price discovery for the benefit of investors and all participants in the debt securities markets in furtherance of the public interest and for the protection of investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASD-2005-120 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-9303.

All submissions should refer to File Number SR-NASD-2005-120. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for

inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NASD.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to the File Number SR-NASD-2005-120 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁷

Secretary

¹⁷ 17 CFR 200.30-3(a)(12).