

# Notice to Members

APRIL 2007

## SUGGESTED ROUTING

Legal and Compliance  
Operations  
Registered Representatives  
Senior Management  
Technology  
Trading and Markets  
Training

## KEY TOPICS

Debt Securities  
Operations  
Rule 6200 Series  
TRACE Rules  
Transaction Reporting

## GUIDANCE

### Transaction Reporting

SEC Approves Amendments to TRACE Reporting Exempting Trades in TRACE-Eligible Securities Conducted on a Facility of, and Reported to, the New York Stock Exchange; **Effective Date: January 9, 2007**

#### Executive Summary

On November 16, 2006, the Securities and Exchange Commission approved an amendment to Rule 6230 (Transaction Reporting). Effective January 9, 2007, these amendments provide, on a pilot basis, a reporting exemption for corporate debt securities subject to both NASD's and NYSE's trade reporting requirements. The rules, as amended, are set forth in Attachment A.

#### Questions/Further Information

Questions concerning this *Notice* should be directed to Elliot Levine, Chief Counsel, Transparency Services, Markets, Services and Information, at (202) 728-8405; Ola Persson, Director, TRACE Data, Transparency Services, at (212) 858-4796; and James L. Eastman, Assistant General Counsel, Office of General Counsel, at (202) 728-6961.

#### Background and Discussion

On November 16, 2006, the SEC approved on an accelerated basis an amendment to Rule 6230(e) to exempt from Trade Reporting and Compliance Engine (TRACE) requirements, for a pilot period of two years, transactions in TRACE-eligible securities *executed* on a facility of the New York Stock Exchange (NYSE) in accordance with NYSE Rules 1400 and 1401.<sup>1</sup> The pilot period began January 9, 2007.<sup>2</sup>

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To qualify for this new exemption, Rule 6230(e)(4), the transaction must be reported to NYSE pursuant to applicable NYSE trade reporting rules and disseminated publicly by NYSE. A transaction in a TRACE-eligible security executed on and reported to an exchange *other than* NYSE that is disseminated publicly still would qualify for an exemption from reporting under Rule 6230(e)(2). However, as was the case prior to the recent amendments, the exemption in Rule 6230(e)(2) is limited to transactions in securities that are *listed* on a national securities exchange.

NASD amended Rule 6230 to address concerns regarding duplicative trade reporting of corporate debt securities subject to both NASD's and NYSE's trade reporting requirements.

## Endnotes

- 1 See Securities Exchange Act Release No. 54768 (November 16, 2006), 71 FR 67673 (November 22, 2006) (SR-NASD-2006-110). The SEC also approved technical changes to NASD Rule 6210 to remove references to "NASDAQ" and the "Nasdaq Stock Market, Inc." and to remove references to "NASDAQ" in NASD Rule 6230 to reflect The NASDAQ Stock Market LLC's registration as a national securities exchange.
- 2 Unlike virtually every *Notice to Members* pertaining to a rule change that has a prospective effective date in order to allow member firms time to comply, the effective date of this Transaction Reporting rule change (SEC Release No. 54768) was scheduled to become effective upon either (1) SEC approval of the rule change or (2) execution by NASD and NYSE of a data sharing agreement addressing data related to the transactions covered by the rule change—whichever came later. The effective date of the NASD and NYSE data sharing agreement was the later of these two dates and, therefore, triggered the rule's effectiveness, even though it pre-dates this Notice. The first transactions covered by the rule change—and not subject to TRACE reporting—occurred the week of April 23, 2007.

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## ATTACHMENT A

New language is underlined; deletions are in brackets

### 6200. TRADE REPORTING AND COMPLIANCE ENGINE (TRACE)

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#### 6210. Definitions

The terms used in this Rule 6200 Series shall have the same meaning as those defined in NASD's By-Laws and Rules unless otherwise specified.

(a) No Change.

(b) No Change.

(c) The term "reportable TRACE transaction" shall mean any secondary market transaction in a TRACE-eligible security except transactions in TRACE-eligible securities that are listed on a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934, when such transactions are executed on, and reported to the exchange and the transaction information is disseminated publicly[, or transactions in TRACE-eligible securities that are listed and quoted on the Nasdaq Stock Market, Inc. (Nasdaq), when such transactions are reported to Nasdaq and the transaction information is disseminated publicly].

(d)-(j) No Change.

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## 6230. Transaction Reporting

(a) through (d) No Change.

### (e) Transactions Exempt from Reporting

The following types of transactions shall not be reported:

(1) Transactions that are part of a primary distribution by an issuer.

(2) Transactions in TRACE-eligible securities that are listed on a national securities exchange, when such transactions are executed on and reported to the exchange and the transaction information is disseminated publicly[, and transactions in TRACE-eligible securities that are listed and quoted on Nasdaq, when such transactions are reported to Nasdaq and the transaction information is disseminated publicly].

(3) Transactions where the buyer and the seller have agreed to trade at a price substantially unrelated to the current market for the TRACE-eligible security (e.g., to allow the seller to make a gift).

(4) For the duration of a two-year pilot program, effective upon the later of either: 1) approval of this rule by the Commission, or 2) execution by NASD and the New York Stock Exchange ("NYSE") of a data sharing agreement addressing data related to transactions covered by this Rule, transactions in TRACE-eligible securities that are executed on a facility of NYSE in accordance with NYSE Rules 1400 and 1401 and reported to NYSE in accordance with NYSE's applicable trade reporting rules and disseminated publicly by NYSE.

(f) No Change.