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*Section 213.3394 Department of Transportation*

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*Section 213.3396 National Transportation Safety Board*

TBGS60001 Counselor to the Chairman

TBGS60025 Special Assistant to the Vice Chairman  
 TBGS60032 Special Assistant to a Member  
 TBGS60034 Director, Office of Family Affairs to the Chairman  
 TBGS60102 Special Assistant to the Vice Chairman  
 TBGS60105 Confidential Assistant to the Vice Chairman

*Section 213.3397 Federal Housing Finance Board*

FBOT00003 Special Assistant for External Affairs to the Chairman  
 FBOT00005 Staff Assistant to the Chairman  
 FBOT60001 Special Assistant to the Chairman  
 FBOT60002 Counsel to the Chairman  
 FBOT60004 Chief Counsel to the Board Director  
 FBOT60006 Special Assistant to the Board Director  
 FBOT60007 Special Assistant to the Board Director

**Authority:** 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218

Office of Personnel Management.

**Kay Coles James,**

*Director.*

[FR Doc. 03-31406 Filed 12-19-03; 8:45 am]

**BILLING CODE 6325-38-U**

**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-48926; File No. SR-NASD-2003-182]**

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Proposed Amendments to "TRACE-Eligible Security" and an Exemption to Trade Reporting**

December 15, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 5, 2003, 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.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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

NASD is proposing to: (1) Amend Rule 6210(a) to clarify certain terms used in the definition, "TRACE-eligible security"; (2) amend NASD Rule 6230(e)(2) to expand the trade reporting exemption to qualifying transactions in any TRACE-eligible security that is listed and quoted on the Nasdaq Stock Market, Inc. ("Nasdaq"); and (3) make conforming amendments to the defined term, "reportable TRACE transaction," in Rule 6210(c). Rules 6210 and 6230 are part of the Trade Reporting and Compliance Engine ("TRACE") rules. Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in brackets.

\* \* \* \* \*

**6200. Trade Reporting and Compliance Engine (TRACE)**

**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) The term "TRACE-eligible security" shall mean all United States dollar denominated debt securities that are depository eligible securities under Rule 11310(d); Investment Grade or Non-Investment Grade; issued by United States and/or foreign private issuers [corporations]; and: (1) registered *under the Securities Act of 1933* [with the Securities and Exchange Commission] or (2) issued pursuant to Section 4(2) of the Securities Act of 1933 and purchased and sold pursuant to Rule 144A of the Securities Act of 1933. The term "TRACE-eligible security" excludes debt issued by government-sponsored entities, mortgage- or asset-backed securities, collateralized mortgage obligations, and money market instruments. For purposes of the Rule 6200 Series, the term "money market instrument" means a debt security that at issuance has a maturity of one year or less.

(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 [convertible debt] *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) through (i) No Change.

\* \* \* \* \*

### 6230. Transaction Reporting

(a) through (d) No Change.

(e) Transactions [Not Required To Be Reported] *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 [convertible debt] *TRACE-eligible* securities that are listed and quoted on Nasdaq, when such transactions are reported to Nasdaq and the transaction information is disseminated publicly.[; and]

(3) No Change.

(f) No Change.

\* \* \* \* \*

### I. 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

"*TRACE-Eligible Security*." NASD proposes to amend Rule 6210(a) to clarify two terms in the definition, "*TRACE-eligible security*." First, NASD proposes to replace "registered with the Securities and Exchange Commission" in Rule 6210(a) with "registered under the Securities Act of 1933" to clarify the intended scope of that term.

Second, NASD proposes to clarify that *TRACE-eligible* securities include the debt securities of all U.S. and foreign private issuers generally, by substituting the word "issuers" for "corporations."

Although most issuers of securities are organized as corporations, this amendment makes clear that the debt securities of issuers that use another form of business organization are *TRACE-eligible* securities, provided that all the other conditions set forth in Rule 6210(a) are met.

*Trade Reporting Exemption for Nasdaq-Listed Debt Securities.* NASD has determined that the exemption from trade reporting in Rule 6230(e)(2), relating to debt securities listed and quoted on Nasdaq, is inappropriately narrow. The proposed amendment to Rule 6230(e)(2) will clarify and expand the exemption for certain transactions in *TRACE-eligible* debt securities that are listed on Nasdaq. NASD is also proposing conforming changes to Rule 6210(c).

Currently, Rule 6230(e)(2) provides, in relevant part, that a transaction in a *TRACE-eligible* security is exempt from reporting if the transaction is in a convertible debt security that is listed and quoted on Nasdaq, the transaction is reported to Nasdaq, and the transaction information is disseminated publicly. The proposed amendment to Rule 6230(e)(2) will exempt a member from reporting to *TRACE* a transaction in *any* *TRACE-eligible* security that is listed and quoted on Nasdaq, rather than only convertible debt securities, provided that the other two requirements for the exemption are also present (*i.e.*, the transaction is reported to Nasdaq and the transaction information is disseminated publicly).

The purpose of the provision is to exempt from the *TRACE* reporting requirements a transaction in a *TRACE-eligible* security if the transaction in the Nasdaq-listed and -quoted security is already subject to regulatory reporting, and the information reported is being made available to the public through dissemination.<sup>3</sup> At the time that the provision relating to Nasdaq was adopted, the provision was limited to Nasdaq-listed and -quoted *convertible debt securities* because it was believed that these were the only debt securities at issue. As the market in equity-linked debt securities has developed, NASD believes that the language of the exemption should be broader to clarify that the same types of transactions in these and similar securities that may be listed and quoted on Nasdaq should also be exempt from reporting. NASD also proposes to make conforming changes to

<sup>3</sup> Rule 6230(e)(2) also includes an exemption from reporting for transactions in *TRACE-eligible* securities that are listed on a national securities exchange, when the transactions are executed on and reported to the exchange, and transaction information is disseminated publicly.

the defined term, "reportable *TRACE* transaction," in Rule 6210(c).

##### 2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>4</sup> which requires, among other things, that NASD's 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, if approved, will provide NASD, as the self-regulatory organization designated to regulate the over-the-counter markets, with appropriate capabilities to regulate and provide surveillance of the debt securities markets to prevent fraudulent and manipulative acts and practices, for the protection of investors and in the public interest.

#### 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. Persons making written submissions should file six copies thereof with the

<sup>4</sup> 15 U.S.C. 78o-3(b)(6).

Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. SR-NASD-2003-182. This file number should be included on the subject line if e-mail is used. To help the Commission process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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. Copies of such filing will also be available for inspection and copying at the principal office of NASD. All submissions should refer to file number SR-NASD-2003-182 and should be submitted by January 12, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 03-31451 Filed 12-19-03; 8:45 am]  
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## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #P018]

#### U.S. Virgin Islands

As a result of the President's major disaster declaration for Public Assistance on December 9, 2003 the U.S. Small Business Administration is activating its disaster loan program only for private non-profit organizations that provide essential services of a governmental nature. I find that St. Croix, St. John, and St. Thomas, including Water Island, in the U.S. Virgin Islands constitute a disaster area due to damages caused by severe storms, flooding, landslides and mudslides occurring on November 10 through November 16, 2003. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on February 9, 2004, at the address listed

below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

#### For Physical Damage

Non-profit organizations without credit available elsewhere—3.061%  
Non-profit organizations with credit available elsewhere—4.875%

The number assigned to this disaster for physical damage is P01806.

(Catalog of Federal Domestic Assistance Program Nos. 59008.)

Dated: December 11, 2003.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 03-31387 Filed 12-19-03; 8:45 am]

BILLING CODE 8025-01-P

## SMALL BUSINESS ADMINISTRATION

### Termination of the Waiver of the Nonmanufacturer Rule

**AGENCY:** Small Business Administration.  
**ACTION:** Final rule.

**SUMMARY:** The decision to terminate this waiver of the Nonmanufacturer Rule is based on evidence provided to the SBA that there are small businesses which manufacturer items within this class of product. Terminating this waiver will require recipients of contracts set aside for small or 8(a) businesses to provide the product of domestic small business manufacturers or processors where this class of product is required. A notice to terminate a waiver of the Nonmanufacturer Rule appeared in the **Federal Register** on October 29, 2003 (FR 68 209). Comments from this notice were received from small business manufacturers. Our knowledge of the existence of small business manufacturers requires us to terminate the waiver of the Nonmanufacturer for Small Arms Manufacturing, NAICS 332994, in accordance with 13 CFR 121.1204(a)(7).

**EFFECTIVE DATE:** December 22, 2003.

**FOR FURTHER INFORMATION:** Edith Butler, Program Analyst, U.S. Small Business Administration, 409 3rd Street, SW., Washington DC, 20416 Tel: (202) 619-0422

**SUPPLEMENTARY INFORMATION:** Public Law 100-656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set aside for small businesses or SBA 8(a) Program procurement must

provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.906(b) and 121.1106(b). Section 303(h) of the law provides for waiver of this requirement by SBA for any "class of products" for which there are no small business manufacturers or processors in the Federal market. To be considered available to participate in the Federal market on these classes of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines "class of products" based on a six digit North American Industry Classification System (NAICS) and the four digit Product and Service Code established by the Federal Procurement Data System.

**Linda G. Williams,**

*Associate Administrator for Government Contracting.*

[FR Doc. 03-31409 Filed 12-19-03; 8:45 am]

BILLING CODE 8025-01-P

## SMALL BUSINESS ADMINISTRATION

### Termination of the Waiver of the Nonmanufacturer Rule

**AGENCY:** Small Business Administration.  
**ACTION:** Final rule.

**SUMMARY:** The decision to terminate this waiver of the Nonmanufacturer Rule is based on evidence provided to the SBA that there are small businesses which manufacturer items within this class of product. Terminating this waiver will require recipients of contracts set aside for small or 8(a) businesses to provide the product of domestic small business manufacturers or processors where this class of product is required. A notice to terminate a waiver of the Nonmanufacturer Rule appeared in the **Federal Register** on October 29, 2003 (FR 68 209). Comments from this notice were received from small business manufacturers. Our knowledge of the existence of small business manufacturers requires us to terminate the waiver of the Nonmanufacturer for Ammunition (Except Small Arms) manufacturing, NAICS 332993, in accordance with 13 CFR 121.1204(a)(7).  
**EFFECTIVE DATE:** December 22, 2003.

**FOR FURTHER INFORMATION:** Edith Butler, Program Analyst, U.S. Small Business

<sup>5</sup> 17 CFR 200.30-3(a)(12).