

February 27, 2003

Katherine A. England
Assistant Director
Division of Market Regulation
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549-1001

**Re: File No. SR-NASD-2003-25 Proposed Temporary Fee Reductions and Extension
on Pilot Basis of NASD Rule 7010(k) Relating to Fees for the Trade
Reporting and Compliance Engine (TRACE)**

Dear Ms. England:

Pursuant to Rule 19b-4, enclosed please find the above-numbered rule filing. Also enclosed is a 3-1/2" disk containing the rule filing in Microsoft Word 7.0 to facilitate production of the Federal Register release.

If you have any questions or comments, please contact Kosha K. Dalal, Office of General Counsel, Regulatory Policy and Oversight, NASD, at (202) 728-6903; e-mail kosha.dalal@nasd.com. The fax number of the Office of General Counsel is (202) 728-8264.

Very truly yours,

Barbara Z. Sweeney
Senior Vice President
and Corporate Secretary

Enclosures

cc: Stephen L. Williams, Division of Market Regulation
Gordon K. Fuller, Division of Market Regulation
Mary N. Simpkins, Division of Market Regulation

File No. SR-NASD-2003-25
Consists of 34 Pages
February 27, 2003

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C.

Form 19b-4

Proposed Rule Change

by

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Pursuant to Rule 19b-4 under the
Securities Exchange Act of 1934

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 7010(k) relating to fees for the Trade Reporting and Compliance Engine (“TRACE”) prior to the expiration of the pilot program for fees on February 28, 2003. NASD is proposing to extend the pilot program for TRACE fees to June 30, 2003, to provide a temporary reduction of certain fees for a one calendar month period during the pilot period, and to clarify certain language relating to the Bond Trade Dissemination Service (“BTDS”) fees. In addition, NASD is proposing to clean up the Rule text by deleting references to certain services, and their corresponding fees, that were previously eliminated. As a result of the proposed rule change, the current fee structure, subject to the temporary reductions being implemented, would remain in effect to June 30, 2003. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

7010. System Services

(k) Trade Reporting and Compliance Engine (TRACE)

(Rule 7010(k) shall expire on [February 28] June 30, 2003, unless amended, extended, or permanently adopted by NASD pursuant to SEC approval at or before such date).

The following charges shall be paid by participants for the use of the Trade Reporting and Compliance Engine (“TRACE”):

System Fees	Transaction Reporting Fees	Market Data Fees
<p>From 07/01/02 to 12/31/02: Web Browser Access: \$85/month for 1 user ID; \$75/month for 2-9 user IDs; \$70/month for 2-10+ user IDs, except</p> <p>If less than 25 trades per month, in October, November, or December 2002 - \$25/month per user ID</p> <p>From 01/01/03 to [02/28/03] 06/30/03: Level I Trade Report Only Web Browser Access - \$25/month per user ID</p> <p>Level II Full Service Web Browser Access - \$85/month per user ID, <u>except</u></p> <p><u>For a period of one calendar month to be announced:</u> <u>Level II Full Service Web Browser Access - \$25/month per user ID</u></p>	<p>From 07/01/02 to 12/31/02: Trades up to and including \$200,000 par value - \$0.50/trade; Trades between \$201,000 and \$999,999 par value - \$0.0025 times the number of bonds traded/trade; Trades of \$1,000,000 par value or more - \$2.50/trade</p> <p>From 01/01/03 to [02/28/03] 06/30/03: Trades up to and including \$200,000 par value - \$0.475/trade; Trades between \$201,000 and \$999,999 par value - \$0.002375 times the number of bonds traded/trade; Trades of \$1,000,000 par value or more - \$2.375/trade</p>	<p>BTDS Professional Display - \$60/month per terminal, <u>except</u></p> <p><u>For a period of one calendar month to be announced:</u> <u>Waiver of fee (\$0)</u></p>
<p>CTCI - \$25/month/line</p>	<p>From 07/01/02 to 12/31/02: Cancel/Correct - \$3/trade, except For October 2002 - \$1.50/trade For November 2002 - \$2.25/trade</p> <p>From 01/01/03 to [02/28/03] 06/30/03: Cancel/Correct - \$1.50/trade</p>	<p>BTDS Internal Usage Authorization - \$500/month per [organization] <u>application/service</u></p>

Third Party - \$25/month	From 07/01/02 to 12/31/02: “As of” Trade Late - \$3/trade, except For October 2002 - \$1.50/trade For November 2002 - \$2.25/trade From 01/01/03 to [02/28/03] <u>06/30/03</u> : “As of” Trade Late - \$3/trade	BTDS External Usage Authorization - \$1,000/month per [organization] <u>application/service</u>
[From 07/01/02 to 12/31/02: PDN Administrative - \$100/month/line] [As of 01/01/03: PDN service and corresponding fee eliminated]	Browse & Query - \$0.05 after first page	BTDS Non-Professional Display - \$1/month per terminal
		[From 07/01/02 to 12/31/02: Daily List Fax - \$15/month per fax number/addressee] [As of 01/01/03: Daily List Fax service and corresponding fee eliminated]

(1) System Related Fees. There are three methods by which a member may report corporate bond transactions that are reportable to NASD pursuant to the Rule 6200 Series. A member may choose among the following methods to report data to NASD: (a) a TRACE web browser [(either over the Internet or a secure private data network (“PDN”)); (b) a Computer-to-Computer Interface (“CTCI”) (either one dedicated solely to TRACE or a multi-purpose line); or (c) a

third-party reporting intermediary. Fees will be charged based on the reporting methodology selected by the member.

(A) Web Browser Access

(i) For the period commencing July 1, 2002 and ending December 31, 2002, the charge to be paid by a member that elects to report TRACE data to NASD via a TRACE web browser shall be as follows: for the first user ID registered, a charge of \$85 per month; for the next two through nine user IDs registered, a charge of \$75 per month, per such additional user ID; and for ten or more user IDs registered, a charge of \$70 per month, per user ID from two to ten or more. If a member reports less than 25 trades per month to the TRACE system in October, November, or December 2002, the charge to be paid by a member for the TRACE web browser shall be \$25, per such month, per user ID.

(ii) For the period commencing January 1, 2003 and ending [February 28] June 30, 2003, the charge to be paid by a member that elects to report TRACE data to NASD via a TRACE web browser shall be as follows: \$25 per month, per user ID for Level I Web Trade Report Only Browser Access and \$85 per month, per user ID for Level II Full Service Web Browser Access. Notwithstanding the above sentence, following the effective date of increased bond data dissemination as approved by the SEC on

January 31, 2003¹, NASD shall announce a period of one calendar month during which the charge for Level II Full Service Web Browser Access shall be \$25 per month, per user ID.

[(iii) A member that elects to report TRACE data to NASD via a web browser over a secure PDN rather than over the Internet shall pay an additional administrative charge of \$100 per month, per line.² As of January 1, 2003, PDN service and the corresponding fee shall be eliminated.]

(B) Computer-to-Computer Interface Access

No change.

(C) Third Party Access – Indirect Reporting

No change.

(2) Transaction Reporting Fees

For each transaction in corporate bonds that is reportable to NASD pursuant to the Rule 6200 Series, the following charges shall be assessed against the member responsible for reporting the transaction:

(A) Trade Reporting Fee

(i) For the period commencing July 1, 2002 and ending December 31, 2002, a member shall be charged a Trade Reporting Fee based upon a sliding scale ranging from \$0.50 to \$2.50 per

¹ On January 31, 2003, the SEC approved amendments to NASD Rule 6250 of the TRACE rules that will allow NASD to begin disseminating transaction information on more than 4,000 qualifying Investment Grade corporate debt securities. See Securities Exchange Act Release No. 47302 (January 31, 2003), 68 FR 6233 (February 6, 2003) (File No. SR-NASD-2002-174).

² Charges that may be imposed by third parties, such as network providers, are not included in these fees.

transaction based on the size of the reported transaction. Trades up to and including \$200,000 par value will be charged a \$0.50 fee per trade; trades between \$201,000 par value and \$999,999 par value will be charged a fee of \$0.0025 multiplied by the number of bonds traded per trade; and trades of \$1,000,000 par value or more will be charged a fee of \$2.50 per trade.

(ii) For the period commencing January 1, 2003 and ending [February 28] June 30, 2003, a member shall be charged a Trade Reporting Fee based upon a sliding scale ranging from \$0.475 to \$2.375 per transaction based on the size of the reported transaction. Trades up to and including \$200,000 par value will be charged a \$0.475 fee per trade; trades between \$201,000 par value and \$999,999 par value will be charged a fee of \$0.002375 multiplied by the number of bonds traded per trade; and trades of \$1,000,000 par value or more will be charged a fee of \$2.375 per trade.

(B) Cancel or Correct Trade Fee

For the period commencing July 1, 2002 and ending December 31, 2002, a member shall be charged a Cancel or Correct Trade Fee of \$3.00 per canceled or corrected transaction. To provide firms with time to adjust to the new reporting system, the Cancel or Correct Trade Fee will not be charged until the later of October 1, 2002 or 90 days after the effective date of TRACE. For the month of October 2002, the Cancel or Correct

Trade Fee shall be \$1.50 per canceled or corrected transaction. For the month of November 2002, the Cancel or Correct Trade Fee shall be \$2.25 per canceled or corrected transaction. For the period commencing January 1, 2003 and ending [February 28] June 30, 2003, a member shall be charged a Cancel or Correct Trade Fee of \$1.50 per canceled or corrected transaction.

(C) “As of” Trade Late Fee

For the period commencing July 1, 2002 and ending December 31, 2002, a member shall be charged an “As of” Trade Late Fee of \$3.00 per transaction for those transactions that are not timely reported “As of” as required by these rules. To provide firms with time to adjust to the new reporting system, the “As of” Trade Late Fee will not be charged until the later of October 1, 2002 or 90 days after the effective date of TRACE. For the month of October 2002, the “As of” Trade Late Fee shall be \$1.50 per such transaction. For the month of November 2002, the “As of” Trade Late Fee shall be \$2.25 per such transaction. For the period commencing January 1, 2003 and ending [February 28] June 30, 2003, a member shall be charged an “As of” Trade Late Fee of \$3.00 per canceled or corrected transaction.

(D) Browse and Query Fee

Members may review their own previously reported transaction data through a Browse and Query function. A member shall be charged \$0.05 for each returned page of the query beyond the first page.

(3) Market Data Fees

Professionals and non-professionals may subscribe to receive real-time TRACE data disseminated by NASD in one or more of the following ways for the charges specified. Members, vendors and other redistributors shall be required to execute appropriate agreements with NASD.

(A) Professional Fees. Professionals may subscribe for the following:

(i) Bond Trade Dissemination Service (“BTDS”) Professional Display Fee of \$60 per month, per terminal charge for each interrogation or display device receiving real-time TRACE transaction data.

Notwithstanding the above sentence, following the effective date of increased bond data dissemination as approved by the SEC on January 31, 2003³, NASD shall announce a period of one calendar month during which NASD shall waive the \$60 per terminal, per month charge.

(ii) BTDS Internal Usage Authorization Fee of \$500 per month, per [organization] application/service charge for internal dissemination of real-time TRACE transaction data used in one or more of the following ways: internal operational and processing systems, internal monitoring and surveillance systems, internal price validation, internal

³ On January 31, 2003, the SEC approved amendments to NASD Rule 6250 of the TRACE rules that will allow NASD to begin disseminating transaction information on more than 4,000 qualifying Investment Grade corporate debt securities. See Securities Exchange Act Release No. 47302 (January 31, 2003), 68 FR 6233 (February 6, 2003) (File No. SR-NASD-2002-174).

portfolio valuation services, internal analytical programs leading to purchase/sale or other trading decisions, and other related activities.⁴

(iii) BTDS External Usage Authorization Fee of \$1,000 per month, per [organization] application/service charge for dissemination of real-time TRACE transaction data used in one or more of the following ways: repackaging of market data for delivery and dissemination outside the organization, such as indices or other derivative products.⁵

(B) Non-Professional Fees

No change.

(C) Non-Professional Defined

No change.

[(4) Daily List Fax Service

Each subscriber for NASD's Daily List Fax Service shall be charged \$15 per month, per fax number/addressee. As of January 1, 2003, Daily List Fax service and the corresponding fee shall be eliminated.]

* * * * *

(b) Not applicable.

(c) Not applicable.

⁴ Under this service, real-time TRACE transaction data may not be used in any interrogation display devices, any systems that permit end users to determine individual transaction pricing in real-time, or disseminated to any external source.

⁵ Under this service, real-time TRACE transaction data may not be used in any interrogation display devices or any systems that permit end users to determine individual transaction pricing in real-time.

2. Procedures of the Self-Regulatory Organization

(a) The proposed rule change was approved by the Board of Governors of NASD on December 23, 2003, which authorized the filing of the rule change with the SEC. Counsel for The Nasdaq Stock Market and NASD Dispute Resolution have been provided an opportunity to consult with respect to the proposed rule change, pursuant to the Plan of Allocation and Delegation of Functions by NASD to its Subsidiaries. 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 NASD Board of Governors to adopt amendments to NASD Rules without recourse to the membership for approval. NASD will announce the implementation date of the proposed rule change in a Notice to Members to be published no later than 30 days following filing with the Commission.

(b) Questions regarding this rule filing may be directed to Kosha K. Dalal, Assistant General Counsel, Office of General Counsel, Regulatory Policy and Oversight, NASD, at (202) 728-6903.

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

(a) Purpose

On July 1, 2002, the Trade Reporting and Compliance Engine (TRACE) became effective. On June 28, 2002, the Commission approved proposed NASD fees relating to the operation of the TRACE system (Rule 7010(k)) on a pilot basis for a six-month period expiring on December 28, 2002.⁶ As part of that rule filing (Amendment No. 3 to

⁶ The Commission approved Rule 7010(k) relating to TRACE fees on June 28, 2002 on a six-month pilot basis. See Securities Exchange Act Release No. 46145 (June 28, 2002), 67 FR 44911 (July 5, 2002) (File No. SR-NASD-2002-63).

SR-NASD-2002-63), NASD committed to review and reassess the proposed TRACE fees as soon as practicable and within six months after the effective date of TRACE, based on such factors as actual volume, usage, costs, and revenues.

On November 15, 2002, NASD submitted a proposed rule change to the SEC to reduce certain TRACE fees for the fourth quarter of 2002 (*i.e.*, the Web Browser Access Fee, the Cancel or Correct Fee, and the “As of” Trade Late Fee). These fees were reduced effective as of October 1, 2002.⁷

On December 12, 2002, NASD submitted a proposed rule change to the SEC to extend the pilot program for TRACE fees to February 28, 2003 and to modify the pilot effective January 1, 2003.⁸ As of January 1, 2003, NASD divided the Web Browser Access Fee into two service levels – Level I with no access to real-time TRACE data, and Level II with access to real-time TRACE data. A participant who registers for Level I Trade Report Only Web Browser Access will be able to report TRACE data to NASD over the Internet. Level I Trade Report Only Web Browser Access will allow a participant to report TRACE data to NASD, but will not allow a participant to receive real-time TRACE transaction data. The fee for Level I Trade Report Only Web Browser Access is \$25 per month, per user ID. A participant who registers for Level II Full Service Web Browser Access will be able to report TRACE data to NASD over the Internet and to use a query feature to receive real-time TRACE transaction data. The fee

⁷ On November 22, 2002, the Commission issued a notice to modify certain TRACE fees during the fourth quarter of 2002. See Securities Exchange Act Release No. 46893 (November 22, 2002), 67 FR 72008 (December 3, 2002) (SR-NASD-2002-167).

⁸ On December 19, 2002, the Commission issued a notice to extend the pilot program for TRACE fees to February 28, 2003 and modify certain fees as of January 1, 2003. See Securities Exchange Act Release No. 47056 (December 19, 2002), 67 FR 79205 (December 27, 2002) (File No. SR-NASD-2002-176).

for Level II Full Service Web Browser Access is \$85 per month, per user ID. A participant may register for a combination of Level I and Level II service based on their usage and needs.

As of January 1, 2003, NASD also reduced trade reporting fees by 5% for 2003 and reduced the Cancel or Correct Fee from \$3.00 to \$1.50 effective January 1, 2003. The “As of” Trade Late Fee will remain at \$3.00 per trade.

To provide additional transparency in the debt market, NASD submitted a rule filing with the Commission to increase the categories of TRACE eligible-securities for which transaction data should be required to be disseminated by NASD (“Phase II”). On December 6, 2002, NASD submitted a rule filing to amend, among other things, NASD Rule 6250 to provide for the dissemination of transaction information on additional Investment Grade TRACE-eligible securities under the NASD Rule 6200 Series (also known as the “TRACE Rules”). On January 31, 2003, the SEC approved amendments to NASD Rule 6250 of the TRACE Rules.⁹ Approximately 520 bonds have been subject to dissemination since TRACE began on July 1, 2002.¹⁰ NASD believes Phase II will substantially increase the amount of information available to the public and market participants about debt markets. NASD believes that under Phase II, over 4,000 TRACE eligible-securities will be subject to dissemination under NASD Rule 6250.

⁹ See Securities Exchange Act Release No. 47302 (January 31, 2003), 68 FR 6233 (February 6, 2003) (File No. SR-NASD-2002-174).

¹⁰ Minor fluctuations in the number of bonds disseminated occur because newly issued bonds are added if they meet the dissemination criteria, and outstanding bonds on which information is disseminated may no longer be disseminated, if, at some point, they fail to meet the dissemination criteria, or mature, or are retired.

Temporary Fee Holiday of BTDS Professional Display Fee

To improve transparency and provide subscribers a “trial month” to explore the services provided by the Bond Trade Dissemination Service (“BTDS”) terminals, NASD is proposing to provide a temporary fee holiday from the BTDS Professional Display Fee to subscribers for a period of one calendar month to be announced following the start of Phase II TRACE data dissemination. During this one-month period, NASD shall not charge subscribers the current \$60 per month, per terminal charge.

Temporary Reduction of Level II Full Service Web Browser Access Fee

To further improve transparency and provide subscribers a “trial month” to explore the additional services provided by Level II Full Service Web Browser Access, NASD is proposing a temporary fee reduction on the current Level II Full Service Web Browser Access Fee. The current fee is \$85 per month, per user ID. NASD is proposing to temporarily reduce the Level II Full Service Web Browser Access Fee to subscribers for a period of one calendar month to be announced following the start of Phase II TRACE data dissemination. During this one-month period, NASD will reduce the charge for Level II Full Service Web Browser Access to \$25 per month, per terminal.

Clarify Language of BTDS Fees

NASD is proposing to revise certain language in the BTDS Internal Usage Authorization Fee and the BTDS External Authorization Fee. Currently, the language in Rule 7010(k)(3)(A)(ii) and (iii) provides that the charge for each service is determined “per month, per organization.” However, NASD staff has received questions on the application of these fees from the industry and there has been some confusion as to the meaning of the language. To alleviate this confusion and to provide clarity in the

application of the charges for these services, NASD is proposing to replace the language “per month, per organization” as used in both the BTDS Internal Authorization Fee and the BTDS External Authorization Fee with the language “per month, per application/service.” NASD hopes this change will clarify that the charges apply to each application/service by a subscriber of TRACE data, including among other things, use of market data (i) to disseminate bond tables to press associations or other publishers, or for the purpose of furnishing market data via magnetic tape; (ii) in operations control programs designed for monitoring and surveillance purposes, order/report price validation, order status verification and related activities, portfolio valuation, system development, creation of a delayed last sale prices system, etc., (iii) in analysis programs; or (iv) in proprietary execution systems.

Extension and/or Renewal of Pilot Program for TRACE Fees

NASD is proposing to extend and/or renew the pilot program for TRACE fees that is scheduled to expire on February 28, 2003 to expire on June 30, 2003. Further, NASD expects to submit a rule filing to the SEC prior to the June 30, 2003 expiration date seeking approval of a permanent fee structure for TRACE. NASD believes that the proposed fee structure for TRACE is reasonable, however, NASD is committed to an ongoing review and reassessment of TRACE fees during 2003. Based on data collected during 2003, NASD may recommend additional changes to the TRACE fee structure to ensure that the TRACE fees are reasonable.

NASD will continue to review and reassess the impact of the overall TRACE fee structure over time to ensure that the fees are reasonable and equitable for participants in the TRACE system.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act, which requires, among other things, that NASD's rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which NASD operates or controls. NASD is proposing to extend the pilot program for TRACE fees to June 30, 2003, to provide certain temporary fee reductions for a one-month period following implementation of Phase II TRACE data dissemination, and to clarify certain language relating to the BTDS Internal Authorization Fee and the External Authorization Fee. In addition, NASD is proposing to clean up the Rule text by deleting references to certain services, and their corresponding fees, that were previously eliminated. As a result of the proposed rule change, the current fee structure, subject to the temporary fee reductions, would remain in effect to June 30, 2003. NASD believes that such proposed rule change will more equitably allocate fees to NASD members during the early stages of implementing TRACE.

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)

The proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act and paragraph (f)(2) of Rule 19b-4 thereunder,¹¹ in that the proposed rule change establishes or changes a due, fee, or other charge. NASD proposes to make the proposed rule change operative immediately. NASD will announce the one-month period during which the described fee reductions will take place in a Notice to Members.

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

Not applicable.

9. Exhibits

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

¹¹ 17 CFR 240.19b-4(f)(2).

Pursuant to the requirements of the Securities Exchange Act of 1934, NASD has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

NASD, INC.

BY: _____
Barbara Z. Sweeney , Senior Vice President and
Corporate Secretary

Date: February 27, 2003

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- _____ ; File No. SR-NASD-2003-____)
[leave space for date]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Temporary Fee Reductions and Extension on Pilot Basis of NASD Rule 7010(k) Relating to Fees for the Trade Reporting and Compliance Engine (TRACE) by National Association of Securities Dealers, Inc.

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 February __, 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. NASD has designated the proposed rule change as “establishing or changing a due, fee, or other charge” under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR § 240.19b-4(f)(2).

I. SELF-REGULATORY ORGANIZATION'S STATEMENT OF THE TERMS OF
SUBSTANCE OF THE PROPOSED RULE CHANGE

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 7010(k) relating to fees for the Trade Reporting and Compliance Engine (“TRACE”) prior to the expiration of the pilot program for fees on February 28, 2003. NASD is proposing to extend the pilot program for TRACE fees to June 30, 2003, to provide a temporary reduction of certain fees for a one calendar month period during the pilot period, and to clarify certain language relating to the Bond Trade Dissemination Service (“BTDS”) fees. In addition, NASD is proposing to clean up the Rule text by deleting references to certain services, and their corresponding fees, that were previously eliminated. As a result of the proposed rule change, the current fee structure, subject to the temporary reductions being implemented, would remain in effect to June 30, 2003. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

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7010. System Services

(k) Trade Reporting and Compliance Engine (TRACE)

(Rule 7010(k) shall expire on [February 28] June 30, 2003, unless amended, extended, or permanently adopted by NASD pursuant to SEC approval at or before such date).

The following charges shall be paid by participants for the use of the Trade Reporting and Compliance Engine (“TRACE”):

System Fees	Transaction Reporting Fees	Market Data Fees
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<p>CTCI - \$25/month/line</p>	<p>From 07/01/02 to 12/31/02: Cancel/Correct - \$3/trade, except For October 2002 - \$1.50/trade For November 2002 - \$2.25/trade</p> <p>From 01/01/03 to [02/28/03] 06/30/03: Cancel/Correct - \$1.50/trade</p>	<p>BTDS Internal Usage Authorization - \$500/month per [organization] <u>application/service</u></p>

Third Party - \$25/month	From 07/01/02 to 12/31/02: “As of” Trade Late - \$3/trade, except For October 2002 - \$1.50/trade For November 2002 - \$2.25/trade From 01/01/03 to [02/28/03] <u>06/30/03</u> : “As of” Trade Late - \$3/trade	BTDS External Usage Authorization - \$1,000/month per [organization] <u>application/service</u>
[From 07/01/02 to 12/31/02: PDN Administrative - \$100/month/line] [As of 01/01/03: PDN service and corresponding fee eliminated]	Browse & Query - \$0.05 after first page	BTDS Non-Professional Display - \$1/month per terminal
		[From 07/01/02 to 12/31/02: Daily List Fax - \$15/month per fax number/addressee] [As of 01/01/03: Daily List Fax service and corresponding fee eliminated]

(1) System Related Fees. There are three methods by which a member may report corporate bond transactions that are reportable to NASD pursuant to the Rule 6200 Series. A member may choose among the following methods to report data to NASD: (a) a TRACE web browser [(either over the Internet or a secure private data network (“PDN”)); (b) a Computer-to-Computer Interface (“CTCI”) (either one dedicated solely to TRACE or a multi-purpose line); or (c) a

third-party reporting intermediary. Fees will be charged based on the reporting methodology selected by the member.

(D) Web Browser Access

(i) For the period commencing July 1, 2002 and ending December 31, 2002, the charge to be paid by a member that elects to report TRACE data to NASD via a TRACE web browser shall be as follows: for the first user ID registered, a charge of \$85 per month; for the next two through nine user IDs registered, a charge of \$75 per month, per such additional user ID; and for ten or more user IDs registered, a charge of \$70 per month, per user ID from two to ten or more. If a member reports less than 25 trades per month to the TRACE system in October, November, or December 2002, the charge to be paid by a member for the TRACE web browser shall be \$25, per such month, per user ID.

(ii) For the period commencing January 1, 2003 and ending [February 28] June 30, 2003, the charge to be paid by a member that elects to report TRACE data to NASD via a TRACE web browser shall be as follows: \$25 per month, per user ID for Level I Web Trade Report Only Browser Access and \$85 per month, per user ID for Level II Full Service Web Browser Access. Notwithstanding the above sentence, following the effective date of increased bond data dissemination as approved by the SEC on

January 31, 2003⁵, NASD shall announce a period of one calendar month during which the charge for Level II Full Service Web Browser Access shall be \$25 per month, per user ID.

[(iii) A member that elects to report TRACE data to NASD via a web browser over a secure PDN rather than over the Internet shall pay an additional administrative charge of \$100 per month, per line.⁶ As of January 1, 2003, PDN service and the corresponding fee shall be eliminated.]

(E) Computer-to-Computer Interface Access

No change.

(F) Third Party Access – Indirect Reporting

No change.

(2) Transaction Reporting Fees

For each transaction in corporate bonds that is reportable to NASD pursuant to the Rule 6200 Series, the following charges shall be assessed against the member responsible for reporting the transaction:

(E) Trade Reporting Fee

(i) For the period commencing July 1, 2002 and ending December 31, 2002, a member shall be charged a Trade Reporting Fee based upon a sliding scale ranging from \$0.50 to \$2.50 per

⁵ On January 31, 2003, the SEC approved amendments to NASD Rule 6250 of the TRACE rules that will allow NASD to begin disseminating transaction information on more than 4,000 qualifying Investment Grade corporate debt securities. See Securities Exchange Act Release No. 47302 (January 31, 2003), 68 FR 6233 (February 6, 2003) (File No. SR-NASD-2002-174).

⁶ Charges that may be imposed by third parties, such as network providers, are not included in these fees.

transaction based on the size of the reported transaction. Trades up to and including \$200,000 par value will be charged a \$0.50 fee per trade; trades between \$201,000 par value and \$999,999 par value will be charged a fee of \$0.0025 multiplied by the number of bonds traded per trade; and trades of \$1,000,000 par value or more will be charged a fee of \$2.50 per trade.

(ii) For the period commencing January 1, 2003 and ending [February 28] June 30, 2003, a member shall be charged a Trade Reporting Fee based upon a sliding scale ranging from \$0.475 to \$2.375 per transaction based on the size of the reported transaction. Trades up to and including \$200,000 par value will be charged a \$0.475 fee per trade; trades between \$201,000 par value and \$999,999 par value will be charged a fee of \$0.002375 multiplied by the number of bonds traded per trade; and trades of \$1,000,000 par value or more will be charged a fee of \$2.375 per trade.

(F) Cancel or Correct Trade Fee

For the period commencing July 1, 2002 and ending December 31, 2002, a member shall be charged a Cancel or Correct Trade Fee of \$3.00 per canceled or corrected transaction. To provide firms with time to adjust to the new reporting system, the Cancel or Correct Trade Fee will not be charged until the later of October 1, 2002 or 90 days after the effective date of TRACE. For the month of October 2002, the Cancel or Correct

Trade Fee shall be \$1.50 per canceled or corrected transaction. For the month of November 2002, the Cancel or Correct Trade Fee shall be \$2.25 per canceled or corrected transaction. For the period commencing January 1, 2003 and ending [February 28] June 30, 2003, a member shall be charged a Cancel or Correct Trade Fee of \$1.50 per canceled or corrected transaction.

(G) “As of” Trade Late Fee

For the period commencing July 1, 2002 and ending December 31, 2002, a member shall be charged an “As of” Trade Late Fee of \$3.00 per transaction for those transactions that are not timely reported “As of” as required by these rules. To provide firms with time to adjust to the new reporting system, the “As of” Trade Late Fee will not be charged until the later of October 1, 2002 or 90 days after the effective date of TRACE. For the month of October 2002, the “As of” Trade Late Fee shall be \$1.50 per such transaction. For the month of November 2002, the “As of” Trade Late Fee shall be \$2.25 per such transaction. For the period commencing January 1, 2003 and ending [February 28] June 30, 2003, a member shall be charged an “As of” Trade Late Fee of \$3.00 per canceled or corrected transaction.

(H) Browse and Query Fee

Members may review their own previously reported transaction data through a Browse and Query function. A member shall be charged \$0.05 for each returned page of the query beyond the first page.

(3) Market Data Fees

Professionals and non-professionals may subscribe to receive real-time TRACE data disseminated by NASD in one or more of the following ways for the charges specified. Members, vendors and other redistributors shall be required to execute appropriate agreements with NASD.

(B) Professional Fees. Professionals may subscribe for the following:

(i) Bond Trade Dissemination Service (“BTDS”) Professional Display Fee of \$60 per month, per terminal charge for each interrogation or display device receiving real-time TRACE transaction data.

Notwithstanding the above sentence, following the effective date of increased bond data dissemination as approved by the SEC on January 31, 2003⁷, NASD shall announce a period of one calendar month during which NASD shall waive the \$60 per terminal, per month charge.

(ii) BTDS Internal Usage Authorization Fee of \$500 per month, per [organization] application/service charge for internal dissemination of real-time TRACE transaction data used in one or more of the following ways: internal operational and processing systems, internal monitoring and surveillance systems, internal price validation, internal

⁷ On January 31, 2003, the SEC approved amendments to NASD Rule 6250 of the TRACE rules that will allow NASD to begin disseminating transaction information on more than 4,000 qualifying Investment Grade corporate debt securities. See Securities Exchange Act Release No. 47302 (January 31, 2003), 68 FR 6233 (February 6, 2003) (File No. SR-NASD-2002-174).

portfolio valuation services, internal analytical programs leading to purchase/sale or other trading decisions, and other related activities.⁸

(iii) BTDS External Usage Authorization Fee of \$1,000 per month, per [organization] application/service charge for dissemination of real-time TRACE transaction data used in one or more of the following ways: repackaging of market data for delivery and dissemination outside the organization, such as indices or other derivative products.⁹

(B) Non-Professional Fees

No change.

(C) Non-Professional Defined

No change.

[(4) Daily List Fax Service

Each subscriber for NASD's Daily List Fax Service shall be charged \$15 per month, per fax number/addressee. As of January 1, 2003, Daily List Fax service and the corresponding fee shall be eliminated.]

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⁸ Under this service, real-time TRACE transaction data may not be used in any interrogation display devices, any systems that permit end users to determine individual transaction pricing in real-time, or disseminated to any external source.

⁹ Under this service, real-time TRACE transaction data may not be used in any interrogation display devices or any systems that permit end users to determine individual transaction pricing in real-time.

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

(a) Purpose

On July 1, 2002, the Trade Reporting and Compliance Engine (TRACE) became effective. On June 28, 2002, the Commission approved proposed NASD fees relating to the operation of the TRACE system (Rule 7010(k)) on a pilot basis for a six-month period expiring on December 28, 2002.¹⁰ As part of that rule filing (Amendment No. 3 to SR-NASD-2002-63), NASD committed to review and reassess the proposed TRACE fees as soon as practicable and within six months after the effective date of TRACE, based on such factors as actual volume, usage, costs, and revenues.

On November 15, 2002, NASD submitted a proposed rule change to the SEC to reduce certain TRACE fees for the fourth quarter of 2002 (*i.e.*, the Web Browser Access

¹⁰ The Commission approved Rule 7010(k) relating to TRACE fees on June 28, 2002 on a six-month pilot basis. See Securities Exchange Act Release No. 46145 (June 28, 2002), 67 FR 44911 (July 5, 2002) (File No. SR-NASD-2002-63).

Fee, the Cancel or Correct Fee, and the “As of” Trade Late Fee). These fees were reduced effective as of October 1, 2002.¹¹

On December 12, 2002, NASD submitted a proposed rule change to the SEC to extend the pilot program for TRACE fees to February 28, 2003 and to modify the pilot effective January 1, 2003.¹² As of January 1, 2003, NASD divided the Web Browser Access Fee into two service levels – Level I with no access to real-time TRACE data, and Level II with access to real-time TRACE data. A participant who registers for Level I Trade Report Only Web Browser Access will be able to report TRACE data to NASD over the Internet. Level I Trade Report Only Web Browser Access will allow a participant to report TRACE data to NASD, but will not allow a participant to receive real-time TRACE transaction data. The fee for Level I Trade Report Only Web Browser Access is \$25 per month, per user ID. A participant who registers for Level II Full Service Web Browser Access will be able to report TRACE data to NASD over the Internet and to use a query feature to receive real-time TRACE transaction data. The fee for Level II Full Service Web Browser Access is \$85 per month, per user ID. A participant may register for a combination of Level I and Level II service based on their usage and needs.

¹¹ On November 22, 2002, the Commission issued a notice to modify certain TRACE fees during the fourth quarter of 2002. See Securities Exchange Act Release No. 46893 (November 22, 2002), 67 FR 72008 (December 3, 2002) (SR-NASD-2002-167).

¹² On December 19, 2002, the Commission issued a notice to extend the pilot program for TRACE fees to February 28, 2003 and modify certain fees as of January 1, 2003. See Securities Exchange Act Release No. 47056 (December 19, 2002), 67 FR 79205 (December 27, 2002) (File No. SR-NASD-2002-176).

As of January 1, 2003, NASD also reduced trade reporting fees by 5% for 2003 and reduced the Cancel or Correct Fee from \$3.00 to \$1.50 effective January 1, 2003. The “As of” Trade Late Fee will remain at \$3.00 per trade.

To provide additional transparency in the debt market, NASD submitted a rule filing with the Commission to increase the categories of TRACE eligible-securities for which transaction data should be required to be disseminated by NASD (“Phase II”). On December 6, 2002, NASD submitted a rule filing to amend, among other things, NASD Rule 6250 to provide for the dissemination of transaction information on additional Investment Grade TRACE-eligible securities under the NASD Rule 6200 Series (also known as the “TRACE Rules”). On January 31, 2003, the SEC approved amendments to NASD Rule 6250 of the TRACE Rules.¹³ Approximately 520 bonds have been subject to dissemination since TRACE began on July 1, 2002.¹⁴ NASD believes Phase II will substantially increase the amount of information available to the public and market participants about debt markets. NASD believes that under Phase II, over 4,000 TRACE eligible-securities will be subject to dissemination under NASD Rule 6250.

Temporary Fee Holiday of BTDS Professional Display Fee

To improve transparency and provide subscribers a “trial month” to explore the services provided by the Bond Trade Dissemination Service (“BTDS”) terminals, NASD is proposing to provide a temporary fee holiday from the BTDS Professional Display Fee to subscribers for a period of one calendar month to be announced following the start of

¹³ See Securities Exchange Act Release No. 47302 (January 31, 2003), 68 FR 6233 (February 6, 2003) (File No. SR-NASD-2002-174).

¹⁴ Minor fluctuations in the number of bonds disseminated occur because newly issued bonds are added if they meet the dissemination criteria, and outstanding bonds on which information is disseminated may no longer be disseminated, if, at some point, they fail to meet the dissemination criteria, or mature, or are retired.

Phase II TRACE data dissemination. During this one-month period, NASD shall not charge subscribers the current \$60 per month, per terminal charge.

Temporary Reduction of Level II Full Service Web Browser Access Fee

To further improve transparency and provide subscribers a “trial month” to explore the additional services provided by Level II Full Service Web Browser Access, NASD is proposing a temporary fee reduction on the current Level II Full Service Web Browser Access Fee. The current fee is \$85 per month, per user ID. NASD is proposing to temporarily reduce the Level II Full Service Web Browser Access Fee to subscribers for a period of one calendar month to be announced following the start of Phase II TRACE data dissemination. During this one-month period, NASD will reduce the charge for Level II Full Service Web Browser Access to \$25 per month, per terminal.

Clarify Language of BTDS Fees

NASD is proposing to revise certain language in the BTDS Internal Usage Authorization Fee and the BTDS External Authorization Fee. Currently, the language in Rule 7010(k)(3)(A)(ii) and (iii) provides that the charge for each service is determined “per month, per organization.” However, NASD staff has received questions on the application of these fees from the industry and there has been some confusion as to the meaning of the language. To alleviate this confusion and to provide clarity in the application of the charges for these services, NASD is proposing to replace the language “per month, per organization” as used in both the BTDS Internal Authorization Fee and the BTDS External Authorization Fee with the language “per month, per application/service.” NASD hopes this change will clarify that the charges apply to each application/service by a subscriber of TRACE data, including among other things, use of

market data (i) to disseminate bond tables to press associations or other publishers, or for the purpose of furnishing market data via magnetic tape; (ii) in operations control programs designed for monitoring and surveillance purposes, order/report price validation, order status verification and related activities, portfolio valuation, system development, creation of a delayed last sale prices system, etc., (iii) in analysis programs; or (iv) in proprietary execution systems.

Extension and/or Renewal of Pilot Program for TRACE Fees

NASD is proposing to extend and/or renew the pilot program for TRACE fees that is scheduled to expire on February 28, 2003 to expire on June 30, 2003. Further, NASD expects to submit a rule filing to the SEC prior to the June 30, 2003 expiration date seeking approval of a permanent fee structure for TRACE. NASD believes that the proposed fee structure for TRACE is reasonable, however, NASD is committed to an ongoing review and reassessment of TRACE fees during 2003. Based on data collected during 2003, NASD may recommend additional changes to the TRACE fee structure to ensure that the TRACE fees are reasonable.

NASD will continue to review and reassess the impact of the overall TRACE fee structure over time to ensure that the fees are reasonable and equitable for participants in the TRACE system.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act, which requires, among other things, that NASD's rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which NASD

operates or controls. NASD is proposing to extend the pilot program for TRACE fees to June 30, 2003, to provide certain temporary fee reductions for a one-month period following implementation of Phase II TRACE data dissemination, and to clarify certain language relating to the BTDS Internal Authorization Fee and the BTDS External Authorization Fee. In addition, NASD is proposing to clean up the Rule text by deleting references to certain services, and their corresponding fees, that were previously eliminated. As a result of the proposed rule change, the current fee structure, subject to the temporary fee reductions, would remain in effect to June 30, 2003. NASD believes that such proposed rule change will more equitably allocate fees to NASD members during the early stages of implementing TRACE.

(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

The proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act¹⁵ and Rule 19b-4(f)(2) thereunder,¹⁶ because the proposal is “establishing or changing a due, fee, or other charge.” The rule change has become

¹⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁶ 17 CFR § 240.19b-4(f)(2).

effective upon filing pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(2) thereunder, and will be operational immediately as of the dates described in the proposed rule change. NASD will announce the one calendar month period during which the described fee reductions will take place in a Notice to Members.

At any time within 60 days of this filing, the Commission may summarily abrogate this proposal if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. SOLICITATION OF COMMENTS

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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 the file number in the caption above and should be submitted by [insert date 21 days from the date of publication].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret McFarland
Secretary