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August 14, 2006

Barbara Z. Sweeney
Office of the Corporate Secretary
National Association of Securities Dealers, Inc.
1735 K Street, NW
Washington, DC 20006-1506

Re: NASD Notice to Members 06-32 – Request for Comment on Providing Public Access to Historic TRACE Data

Dear Ms. Sweeney:

The Bond Market Association (the "Association")[1] appreciates the opportunity to comment on the proposal (the "Proposal") submitted by the National Association of Securities Dealers, Inc. (the "NASD") to provide the public access to historic TRACE data not previously disseminated or otherwise publicly available.

The Association believes the goal of the Proposal, consistent with the general principals under which TRACE was enacted, should be to enhance market transparency and provide market participants with useful analytical tools while avoiding harm to the market. Thus, the Association asks that all information other than (1) information regarding the broker-dealer's MPID and/or their contra party information (the "MPID Data") on transactions in all TRACE-eligible securities and (2) information on transactions in securities issued pursuant to Rule 144A ("Rule 144A") under the Securities Act of 1933, as amended (the "Act"), be disseminated at least 18 months after the calendar quarter in which the trade occurred to parties that request such information. As discussed herein, the Association does not believe that dissemination of the MPID Data or information on transactions in securities issued pursuant to Section 4(2) of the Act and purchased or sold pursuant to Rule 144A ("144A Securities"), on a delayed basis or otherwise, further the goal

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[1] The Association is a trade association that represents approximately 200 securities firms, banks and asset managers that underwrite, trade and invest in fixed-income securities in the United States and in international markets. Fixed income securities include U.S. government and federal agency securities, municipal bonds, corporate bonds, mortgage-backed and asset-backed securities, money market instruments and funding instruments such as repurchase agreements. The Association is expected to merge with the Securities Industry Association in November 2006. More information about the Association and its members and activities is available on its website www.bondmarkets.com, and information regarding the Securities Industry Association is available on its website at www.sia.com.

of promoting market transparency, and, in addition, believes that dissemination of such data may result in harm to the market. Furthermore, the Association believes that any information disseminated should only be distributed after sufficient time delay such that the information no longer can be used to determine trading and other proprietary strategies of market participants, and would not result in reduced liquidity.

The Association notes that the Proposal does not mention any fees or costs associated with dissemination of such information. As such, the Association respectfully requests that no fees be levied for access to this data. In the event that fees are levied, any fees should be applied only to entities that request the TRACE data in an amount necessary solely to cover costs to the NASD for any such dissemination.

Given the significant potential ramifications of the dissemination of historic TRACE data, the Association also respectfully requests that the NASD provide an opportunity for comment after the NASD formulates a specific proposal.

TRACE Data. Certain information from TRACE would be helpful, even on a delayed basis, in determining, among other things, whether bid-ask spreads have compressed or widened, and whether trade volumes and trade sizes have decreased or increased. Such information would not only increase understanding of the United States corporate debt market, but also promote effective rulemaking and policy for U.S. and international markets. Regulators in other countries are closely watching the evolution of corporate bond price transparency in the United States and its effects on liquidity. Access to such data would contribute to more informed and efficient rulemaking.

On the other hand, distribution of data regarding transactions in Rule 144A Securities or the MPID Data would not enhance market transparency and could potentially harm the market, and dissemination of any information without sufficient delay could affect the market negatively by providing opportunities for discernment of trading and business strategies and reducing liquidity.

Types of TRACE Data. The TRACE transaction data forms a database of transaction and pricing information regarding TRACE-eligible securities. TRACE-eligible securities include, among other things, 144A Securities. Transactions regarding 144A Securities currently are reported but not disseminated.

Information currently disseminated by TRACE includes information on size of transactions (capped at $1 million for below investment-grade securities or $5 million for investment-grade securities), price including commission, yield, trade date and trade time (collectively, the "Disseminated Data"). Information that is reported to TRACE but not currently disseminated includes uncapped volumes for trades of TRACE-eligible securities, indicators on whether a trade is a customer buy, customer sell or inter-dealer trade, indicators on whether the broker-dealer reporting the transaction is acting as agent or principal (collectively, the "Requested Historic Data") and the MPID Data.

MPID Data. Given the significant harm to the market and marginal, if any, benefit of MPID Data in analyzing market trends, the Association strongly urges that the MPID Data not be disseminated. Information regarding the entity that reports and/or their contra party is essentially private and proprietary information that delivers little value in understanding aggregate market trends and provides little insight into the corporate bond market. Knowledge of the effect of TRACE on the market by definition would require a review of all market activities, not the activities of each firm on an individual basis. Each firm's activities would only comprise a sliver of the market activity, and would not be representative of the market as a whole.

In addition to providing little research value, release of such information would reveal trading strategies and business strategies of particular market participants which could negatively impact investors. Firms active in the corporate bond markets typically specialize and commit capital to trading certain types of bonds in certain sectors. Not every dealer trades the same bonds. Thus, such data would show the trading patterns and strategies of specific firms. This information, in conjunction with information regarding the specific amount of the corporate bonds sold or acquired, would reveal the focus of the firm's business. If the market understands in which bonds a specific broker-dealer frequently transacts and the size of such transactions, market participants would have unfair insight on the specific firm's allocation of internal resources and sectors to which the firm has committed capital, which would create a situation where it would be very difficult for a firm to obtain the best price for its clients and to effectively implement its business and trading strategies. Thus, dissemination of the MPID Data would make broker-dealers reluctant to transact in certain securities, quite possibly make it difficult for them to buy or sell securities, and thereby significantly increase trading costs for investors, without providing any real benefits.

Furthermore, given the vast quantities of information publicly available regarding institutional investors such as mutual funds, it is quite likely that market participants would be able to identify the specific investor buying or selling the securities, which would be extremely harmful for such investor's ability to increase or decrease its holdings at optimal prices. It could also result in an unwillingness for investors to transact in these securities; broker-dealers typically are obligated, absent certain exceptions, to maintain the confidentiality of the identity and positions of their customer investors. Dissemination of this information would breach those obligations in spirit and violate the purpose of such obligations (i.e., to maintain ability of investors to execute their proprietary trading strategies at optimal prices).

144A Securities. The Association strongly urges that data regarding transactions in Rule 144A Securities not be distributed as such information is not necessary to understand the corporate debt market and could harm the market. Information regarding transactions in Rule 144A Securities is unnecessary as it has never been disseminated. Thus, it has not affected market trading patterns. In addition, disseminating such information can negatively affect the market. Early in the process of implementing TRACE, dissemination of information regarding 144A Securities was determined by the NASD, and agreed to by the industry, as undesirable, in part because parties who are able to invest in 144A Securities are by definition qualified institutional buyers or highly sophisticated persons who have access to deep and varied pools of information, and distribution of such information would only decrease the liquidity of such securities and make it difficult to obtain optimal prices for such securities.

In addition, as the spirit of Rule 144A suggests the information should not be distributed publicly, the Association respectfully requests that, if the NASD were to consider releasing such data, the NASD first obtain explicit guidance from the Securities Exchange Commission on the continued applicability of the Rule 144A exemption to the trading of such securities.[2]

Dissemination Delay and Use of Information. The Association requests that the Disseminated Data and the Requested Historic Data be made available no earlier than at least 18 months after the end of each calendar quarter in which the trade occurred to parties who request the information.

The Disseminated Data and Requested Historic Data are fertile sources of information that can be used to analyze trade and business strategies, and in addition, dissemination of such information before sufficient time has elapsed could negatively affect liquidity. For instance, as noted in the letters from the Association and its Asset Managers Division dated June 16, 2006 and June 19, 2006, respectively, certain information can be used to discern the trading intent of others and consequently result in trade terms that are harmful to the interests of the investor whose trade was reported.[3] In addition, the

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[2] By definition, Rule 144A provides an exemption if information regarding such securities is distributed only to a limited group of people. Rule 144A(d) requires, among other things, that the securities are "offered or sold only to a qualified institutional buyer or to an offeree or purchaser that the seller and any person acting on behalf of the seller reasonably believe is a qualified institutional buyer." The dissemination of trade data would contravene the spirit of Rule 144A by providing information to the public about such privately placed securities.

[3] Comment letters from the Association dated June 16, 2006 and from the Asset Managers Division of the Association dated June 19, 2006 regarding NASD's Notice To Members 06-22.

Association believes that dissemination of information regarding exact trade size for certain corporate bonds, along with pricing information, without sufficient delay would erode dealer willingness to commit capital and provide liquidity for these securities, and reap little, if any, benefit to retail investors, who do not significantly participate in transactions larger than $1 million face value (the lowest threshold at which amounts are currently capped when information is disseminated), or institutional investors who wish to trade large blocks of securities. We believe that the Disseminated Data and Requested Historic Data generally should be released only when the data is sufficiently seasoned such that prices of specific securities do not relate to current market conditions. This approach to the release of trading data is consistent with restrictions on timing for dissemination that the NASD has imposed since the implementation of TRACE. Without a sufficient delay, in certain sectors the data would have much the same effect as immediate dissemination, chilling dealers' ability to quote prices and take risk positions in trading with investors. As such the information should be delayed until the information no longer is current enough to have significant value in determining trade or business strategies, or to affect liquidity.

The Association believes that, given the infrequency with which a significant number of corporate bonds trade and the value of such information in affecting liquidity and revealing trading strategies, the dissemination should be delayed until at least 18 months after the end of each calendar quarter in which the trade occurred. A significant portion of corporate bonds trade very infrequently. For example, according to data from MarketAxess Corporate BondTicker based on TRACE trade reports and the NASD, of all corporate bonds that traded in 2005, approximately seven percent traded two times or less in the entire year and approximately 40% of corporate bonds did not trade at all in 2005. For these bonds, where the average trading frequency is six months or less, dissemination of all TRACE data fields before at least an 18 months delay would potentially reveal information that would allow the discernment of positions and strategies. This, in turn, would lead to a decreased willingness and ability on the part of dealers to take risk positions in making markets for their investor customers. A period shorter than at least 18 months would permit market participants to determine which bonds are still in inventory, the amount of bonds held and the price of such bonds. Thus, dissemination of such information in a shorter period of time would reveal trade strategies which in turn could enable an enterprising party to gouge the holder of such bonds with an unfair price, and could potentially result in reduced liquidity as parties can determine holdings applicable currently and the prices at which such securities were purchased.

The Association believes that, while the information is likely to be rendered stale for commercial purposes and less likely to affect liquidity after at least 18 months following the calendar quarter in which the trade occurred, the information will still be valuable in analyzing long-term trends in the corporate bond market. Additionally, the Association notes that many well-regarded and oft cited studies have been based on data points that are more than 18 months old. For example, a paper in the June 2006 edition of the *Journal of*

Finance on trading activity and the effects of transparency in the municipal bond market is based on data more than five years old.[4] In this and many similar cases, the relevance and value of the research is not diminished by the age of the data.

Costs for Disseminated Data and Requested Historic Data. While the Association values and appreciates the willingness of the NASD to address the distribution of the Disseminated Data and Requested Historic Data, it notes that data contributors should be the principal beneficiaries of any economic value associated with such data. Thus, the Association believes that the NASD should not charge for the distribution of the Disseminated Data and Requested Historic Data, or, to the extent that the NASD intends to levy a charge, such fees should be assessed only to entities requesting the information and only to the extent necessary to cover the cost to the NASD of such distribution.

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We appreciate this opportunity to address the issues raised by the NASD's Proposal. If you have any questions concerning these comments, or would like to discuss these comments further, please feel free to contact me at 646.637.9220 or via email at mkuan@bondmarkets.com.

Sincerely,

Mary Kuan

Mary C.M. Kuan
Vice President and
Assistant General Counsel

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[4] Lawrence A. Harris and Michael S. Piwowar, *Secondary Trading Costs in the Municipal Bond Market*, JOURNAL OF FINANCE (Volume 61: Issue 3, June 2006), at 1361-1397 (information collected during the period November 1999 through October 2000).