

Notice to Members

JANUARY 2005

SUGGESTED ROUTING

Corporate Finance
Legal and Compliance
Operations
Senior Management
Technology
Trading and Market Making
Training

KEY TOPICS

Debt Securities
Dissemination of Transaction
Information
Operations
Rule 6200 Series
TRACE Rules
Transaction Reporting

GUIDANCE

Corporate Debt Securities

NASD Eliminates the TRACE Bond Transaction Data Service (BTDS) Non-Professional Real-Time Data Display Fee and the BTDS Professional Delayed-Time Data Display Fee Pilot Program

Executive Summary

NASD has amended Rule 7010(k) to eliminate the Bond Transaction Data Service (BTDS) Non-Professional Real-Time Data Display Fee, relating to Transaction Reporting and Compliance Engine (TRACE) transaction data, and a second TRACE data fee, the BTDS Professional Delayed-Time Data Display Fee pilot program. Rule 7010(k), as amended, is set forth in Attachment A.

The effective date of the elimination of the BTDS Non-Professional Real-Time Data Display Fee is **February 7, 2005**. The effective date of the termination of the BTDS Professional Delayed-Time Data Display Fee pilot program is **June 1, 2005**.¹

Questions/Further Information

Questions concerning this *Notice* should be directed to tracefeedback@nasd.com; Elliot Levine, Chief Counsel, Market Operations, Markets, Services and Information, at (202) 728-8405; or Sharon K. Zackula, Associate General Counsel, Office of General Counsel, Regulatory Policy and Oversight, at (202) 728-8985.

Discussion

On December 28, 2004, NASD filed a proposed rule change to amend Rule 7010(k) to eliminate two TRACE fees, the BTDS Non-Professional Real-Time Data Display Fee, and the BTDS Professional Delayed-Time Data Display Fee pilot program.²

BTDS Non-Professional Real-Time Data Display Fee

NASD currently charges a minimal fee of \$1.00 per month per terminal for its BTDS Non-Professional Real-Time Data Display service, which allows non-professionals to view TRACE data on a real-time basis. A “non-professional” is defined in Rule 7010(k)(3)(C)(ii) and is limited by definition to natural persons. In addition, the term generally excludes any principal, partner, employee, or other person acting in any capacity in the financial services industry, and any person engaged in or intending to engage in any redistribution of TRACE data.³

NASD will continue to make the TRACE real-time data accessible to non-professionals, but will eliminate the BTDS Non-Professional Real-Time Data Display Fee. NASD is eliminating the fee to remove a financial barrier to the broad-based distribution of TRACE data, particularly to individual investors. Wider distribution of TRACE data is a cornerstone of a broader effort to better educate individual investors about the corporate bond market. NASD anticipates that financial Web sites and other media outlets will be encouraged to redistribute the TRACE market data to individual investors as a result of this fee change. The effective date of the elimination of the BTDS Non-Professional Real-Time Data Display Fee is **February 7, 2005**.

BTDS Professional Delayed-Time Data Display Fee Pilot Program

NASD established a pilot program that charges for TRACE transaction information provided to professionals on a delayed basis. The charge for this pilot program is the BTDS Professional Delayed-Time Data Display Fee of \$15 per month, which is imposed per terminal for each interrogation or display device receiving the delayed data.

As part of a recent comprehensive review of TRACE fees, NASD decided to terminate the BTDS Professional Delayed-Time Data Display Fee and service because the demand for the service was limited. NASD will terminate the pilot program and the related BTDS Professional Delayed-Time Data Display Fee on **June 1, 2005**.

Endnotes

- 1 See Securities Exchange Act Release No. 50977 (January 6, 2005), 70 Fed. Reg. 2202 (January 12, 2005) (File No. SR-NASD-2004-189, filed for immediate effectiveness on December 28, 2004).
- 2 In SR-NASD-2004-189, NASD also proposed to change the implementation date of Stage Two of SR-NASD-2004-094 from February 1, 2005 to February 7, 2005. See *Notice to Members 05-02*.
- 3 Rule 7010(k)(3)(C)(ii) provides:

“Non-Professional” — A non-professional subscriber must provide certain information to NASD and shall receive TRACE market data primarily for his or her personal, noncommercial use. As used in Rule 7010(k)(3) a “non-professional” is a natural person who is neither:

 - a. registered nor qualified in any capacity with the Commission, the Commodity Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association, or an employee of the above who uses such information primarily for business-related activities;
 - b. engaged as an “investment adviser” as that term is defined in Section 202(a)(11) of the Investment Advisers Act of 1940 (whether or not registered or qualified under that Act), or an employee of the above who uses such information primarily for business-related activities;
 - c. employed by a bank, insurance company or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt; or
 - d. engaged in, or has the intention to engage in, any redistribution of all or any portion of the information disseminated through TRACE.

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ATTACHMENT A

New text is underlined and deleted text is bracketed.

7010. System Services

(a) through (j) No change.

(k) Trade Reporting and Compliance Engine

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
Level I Trade Report Only Web Browser Access - \$20/month per user ID Level II Full Service Web Browser Access - \$80/month per user ID	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	BTDS Professional Real-Time Data Display - \$60/month per terminal, except
CTCI/Third Party - \$25/month/per firm	Cancel/Correct - \$1.50/trade	[BTDS Professional Delayed-Time Data Display - \$15/month per terminal]
	"As of" Trade Late - \$3/trade	BTDS Internal Usage Authorization - \$500/month per application/service for Real-Time and Delayed-Time Data
		BTDS External Usage Authorization - \$1,000/month per application/service for Real-Time and Delayed-Time Data
		BTDS Non-Professional Real-Time Data Display – <u>No charge</u> [\$1/month per terminal]

(1) through (2) No change.

(3) Market Data Fees

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

(A) Professional Fees

Professionals may subscribe for the following:

(i) No change.

(ii) Reserved. [For a pilot period commencing February 1, 2004, and lasting through July 31, 2005, BTDS Professional Delayed-Time Data Display Fee of \$15 per month, per terminal charge for each interrogation or display device receiving Delayed-Time TRACE transaction data; provided, that subscribers to the BTDS Professional Real-Time Data Display Fee described above shall not be charged this additional fee. Subject to the execution of appropriate agreements with NASD, certain summary market information of Delayed-Time TRACE transaction data may be published or distributed by newspapers, press associations, newsletters, or similar media sources without charge.]

(iii) through (iv) No change.

(B) Non-Professional Fees

[The charge to be] There shall be no charge paid by a non-professional for [each terminal]receiving all or any portion of Real-Time TRACE transaction data disseminated through TRACE.] shall be \$1.00 per month, per terminal.]

(C) through (D) No change.

(l) through (u) No change.