

December 18, 2002

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

**Re: Amendment No. 1 to File No. SR-NASD-2002-174
Proposed Amendments to Rule 6200 Series to Increase Dissemination**

Dear Ms. England:

Pursuant to Rule 19b-4, enclosed please find Amendment No. 1 to SR-NASD-2002-174. NASD is filing this Amendment No. 1 to delete the proposed changes to the text of Rule 6230, which were set forth in new paragraph (g) and would have allowed members to request exemptive relief. In addition, NASD is proposing to delete the related proposed changes to the text of Rule 9610(a) and otherwise to eliminate all references concerning exemptive relief from SR-NASD-2002-174. The amendments to the rule filing are described below.

In addition, NASD has prepared Exhibit A and Exhibit 1. Attached Exhibit A incorporates the changes proposed in Amendment No. 1; language added in discussion sections of the release is underlined and deletions are bracketed. (Substantially all of the changes in this Amendment No. 1 are deletions.) Revised Exhibit 1 attached hereto *incorporates* the changes proposed in this Amendment No. 1, but does not include editing notations, except as needed to publish the revised proposed rule change in the Federal Register.

Form 19b-4 Changes.

In part "1., Text of Proposed Rule Change," NASD proposes to revise paragraph (a) to delete clause (2) and to renumber the clauses that follow. In addition, current clause (5), renumbered as new clause (4), is revised to read as follows: "[~~(5)~~](4) in the provisions referenced in (1) through [~~(4)~~](3) above, to delete the term[s] 'Association' [and "NASD Regulation"]and to replace [them]it with 'NASD.'"

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Also in part 1, NASD proposes to eliminate the proposed rule text changes to Rule 6230 and Rule 9610(a). The effect of this change is that Rule 6230 and Rule 9610(a) would not be addressed in SR-NASD-2002-174.

In part “3., Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change,” under “(a), Purpose,” NASD proposes to delete the caption, “Exemptive Relief,” and the paragraph so captioned.

Also in part 3, under “(a) Purpose,” NASD proposes to amend the final paragraph as follows.

Finally, in the provisions that are subject to other amendments, NASD is deleting the term[s], “Association₂” [and “NASD Regulation”] and substituting the term, “NASD.” These are administrative changes only to reflect recent NASD organizational changes.

In part 3, under paragraph “(b), Statutory Basis,” NASD proposes to amend the second sentence in the paragraph as follows: “NASD believes that the proposed rule change, if approved, will protect investors and the public interest, by among other things, increasing transparency in the fixed income markets[, providing for an exemptive process under Rule 6230,] and clarifying other TRACE Rule provisions.”

Under part “7., Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2),” NASD proposes to amend the third and fourth paragraphs as follows.

[Third, adopting the amendments to Rule 6230(g) and Rule 9610(a) will provide NASD a clear, transparent exemptive process under the TRACE Rules. Fourth,] Third, approving the other proposed amendments, which are minor and uncontroversial changes, or clarifying changes, will clarify existing TRACE Rules, which is in the public interest and for the public benefit. Finally, it should be noted that approving the proposed rule change on an accelerated basis will not disadvantage NASD members and other market professionals because members and vendors generally will not be required to modify existing systems or create new software when NASD implements the rule change.

Because NASD believes investors would benefit and the public interest would be served by providing the public access more quickly to substantially more real-time transaction information[, by providing for an exemptive process,] and by adopting clarifying changes to the TRACE Rules, and in light of the fact that the

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public and members previously were given the opportunity to comment and did provide extensive comments about the dissemination of TRACE-eligible securities, NASD requests the Commission to accelerate the effectiveness of the proposed rule change prior to the 30th day after its publication in the Federal Register.

If you have any questions, please contact Sharon K. Zackula, Office of General Counsel, Regulatory Policy and Oversight, NASD, at (202) 728-8985; e-mail sharon.zackula@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: Exhibit A
Revised Exhibit 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NASD-2002-174)

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Increasing Dissemination of Debt Securities Transaction Information Under the TRACE Rules

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 , 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. For the reasons discussed below, NASD is requesting the Commission to grant accelerated approval of the proposed rule change.

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

NASD is proposing to amend: (1) Rule 6250 to provide for the dissemination of transaction information on additional Investment Grade TRACE-eligible securities under the Rule 6200 Series (also known as the Trade Reporting and Compliance Engine (“TRACE”) Rules);³ [(2) Rule 6230 and Rule 9610(a) to provide NASD staff the authority to grant exemptive relief from Rule 6230;] [(3)](2) Rule 6210(e) to include the term “customer” in the defined term,

¹ 15 U.S.C. § 78s(b)(1).

² 17 CFR § 240.19b-4.

³ The terms “Investment Grade” and “TRACE-eligible security” are defined in TRACE Rule 6210, Definitions, in paragraphs (h) and (a), respectively.

“party to the transaction”; [(4)](3) Rule 6260 to make minor clarifications; and, [(5)](4) in the provisions referenced in (1) through [(4)](3) above, to delete the term[s] “Association” [and “NASD Regulation”]and to replace [them]it with “NASD.” 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 [the Association’s]NASD’s By-Laws and Rules unless otherwise specified.

(a) through (d) No change.

(e) The term “party to the transaction” [“parties to the transaction”] shall mean [the]an introducing broker-dealer, if any, [and the]an executing broker-dealer, or a customer. For the purposes of this Rule, customer includes a broker-dealer that is not an NASD member.

(f) through (i) No change.

* * * * *

[6230. Transaction Reporting]

[(a) through (f) No change.]

[(g) Exemptions]

[Pursuant to the Rule 9600 Series, NASD, for good cause shown after taking into consideration all relevant factors, may exempt any person, security or transaction, or any class or classes of persons, securities or transactions, either unconditionally or on specified terms, from any or all of the requirements of this Rule if it determines that such exemption is consistent with the purposes of this Rule, the protection of investors, and the public interest.]

[* * * * *]

6250. Dissemination of Corporate Bond Trade Information

(a) General Dissemination Standard

Immediately upon receipt of transaction reports received at or after 8:00 a.m. through 6:29:59 p.m. Eastern Time, [the Association]NASD will disseminate transaction information (except that market aggregate information and last sale information will not be updated after 5:15 p.m. Eastern Time) [relating to transactions] in[:] the securities described below.

(1) [a]A TRACE-eligible security [having an initial issuance size of \$1 billion or greater]that is Investment Grade at the time of receipt of the transaction report and has an initial issuance size of \$1 billion or greater.[: and]

(2) [a]A TRACE-eligible security that is[designated for dissemination according to the following criteria and is] Non-Investment Grade at the time of receipt of the transaction report and is designated by NASD for dissemination according to the following criteria.

(A) through (B) No change.

(3) A TRACE-eligible security that is Investment Grade, is rated by Moody's Investors Service, Inc. as "A3"⁴ or higher, and by Standard & Poor's, a division of McGraw Hill Co., Inc., as "A-"⁵ or higher, and has an original issue size of \$100 million

⁴ Moody's Investors Service, Inc. ("Moody's") is a nationally recognized statistical rating organization. Moody's is a registered trademark of Moody's Investors Service. Moody's ratings are proprietary to Moody's and are protected by copyright and other intellectual property laws. Moody's licenses ratings to NASD. Ratings may not be copied or otherwise reproduced, repackaged, further transmitted, transferred, disseminated, redistributed or resold, or stored for subsequent use for any purpose, in whole or in part, in any form or manner or by any means whatsoever, by an person without Moody's prior written consent.

⁵ Standard & Poor's, a division of the McGraw-Hill Companies, Inc. ("S&P"), is a nationally recognized statistical rating organization. S&P's ratings are proprietary to S&P and are protected by copyright and other intellectual property laws. S&P's licenses ratings to NASD. Ratings may not be copied or otherwise

or greater. If a security is rated under this provision to qualify for dissemination at any time on or after the effective date of the rule, dissemination of transaction information on the security will continue under this paragraph unless the security is downgraded below Baa3/BBB-.

(4) Ninety TRACE-eligible securities designated by NASD that are rated Baa/BBB at the time of designation, according to the following standards.

(A) Three groups composed of 30 TRACE-eligible securities (Group 1, Group 2, and Group 3) shall be designated by NASD. At the time of designation, each TRACE-eligible security in Group 1 must be rated “Baa1/BBB+;” and each TRACE-eligible security in Group 2 and Group 3, must be rated, respectively, “Baa2/BBB,” and “Baa3/BBB-,” provided that if a TRACE-eligible security is rated one of the “Baa” ratings by Moody’s and one of the “BBB” ratings by S&P and the ratings indicate two different levels of credit quality, the lower of the two ratings will be used to determine the group to which a debt security will be assigned under paragraph (a)(4).

(B) A TRACE-eligible security that has a rating from only one rating agency will not be designated under paragraph (a)(4).

(C) Dissemination of transaction information on a TRACE-eligible security that is designated under paragraph (a)(4) will not be discontinued if one rating is, or both ratings are downgraded or upgraded.

(b) through (d) No change.

6260. Managing Underwriter Obligation To Obtain CUSIP

(a) No change.

(b) For such TRACE-eligible securities, the managing underwriter must provide to the TRACE Operations Center: (1) the CUSIP number; (2) the issuer name; (3) the coupon rate; (4) the maturity; (5) whether Rule 144A applies; and (6) a brief description of the issue (e.g., senior subordinated note, senior note), or if any of items (2) through (6) [such information] has not been determined, such other information as [the]NASD deems necessary. The managing underwriter must obtain the CUSIP number and provide it and the information listed as (2) through (6) not later than 5:00 p.m. on the business day preceding the day that the registration statement becomes effective, or, if registration is not required, the day before the securities will be priced. If an issuer notifies [an]a managing underwriter, or the issuer and the managing underwriter determine, that the TRACE-eligible securities of the issuer shall be priced, offered and sold the same business day in an intra-day offering under Rule 415 of the Securities Act of 1933 or Rule 144A of the Securities Act of 1933, the [member] managing underwriter shall provide the information not later than 5:00 p.m. on the day that the securities are priced and offered, provided that if such securities are priced and offered on or after 5:00 p.m., the [member]managing underwriter shall provide the information not later than 5:00 p.m. on the next business day. [A member]The managing underwriter must make a good faith determination that the security is a TRACE-eligible security before submitting the information to the TRACE Operations Center.

* * * * *

[9600. PROCEDURES FOR EXEMPTIONS

9610. Application]

[(a) Where to File]

[A member seeking exemptive relief as permitted under Rules 1021, 1070, 2210, 2315, 2320, 2340, 2520, 2710, 2720, 2810, 2850, 2851, 2860, Interpretive Material 2860-1, 3010(b)(2), 3020, 3150, 3210, 3230, 3350, 6230, 8211, 8212, 8213, 11870, or 11900, Interpretive Material 2110-1, or Municipal Securities Rulemaking Board Rule G-37 shall file a written application with the appropriate department or staff of [the Association] NASD and provide a copy of the application to the Office of General Counsel, Regulatory Policy and Oversight, of NASD. [Regulation.]]

[* * * * *]

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

Increasing Transparency and Dissemination of Information

The main purpose of the proposed rule change is to provide additional transparency in the corporate bond market by increasing the categories of TRACE-eligible securities for which transaction information is required to be disseminated under Rule 6250.

NASD currently requires that transaction information in two types of TRACE-eligible securities be disseminated upon receipt by TRACE. Dissemination is required for: (1) a

TRACE-eligible security that is Investment Grade at the time of receipt of the transaction report and has an initial issuance size of \$1 billion or greater (Rule 6250(a)(1)); and, (2) 50 Non-Investment Grade⁶ TRACE-eligible securities that are designated according to volume, price and other standards set forth in Rule 6250(a)(2). Under the current provision, approximately 520 bonds have been subject to dissemination since TRACE began on July 1, 2002.⁷

Under the proposed rule change, NASD will require transaction information to be disseminated in two additional categories of Investment Grade TRACE-eligible securities. First, Investment Grade TRACE-eligible securities of at least \$100 million par value (original issue size) or greater and rated by Moody's as "A3" or higher and S& P as "A-" or higher will be disseminated. In addition, a security in this group will continue to be disseminated even if the rating is downgraded, unless the rating decreases below Baa3/BBB-. (The lower of two ratings, if "split," will be used to determine if dissemination must be discontinued.) Bonds that have a rating from only one agency will not be included in this group. See proposed Rule 6250(a)(3).

Second, a group of 90 Investment Grade TRACE-eligible securities rated Baa/BBB (or "medium grade"), which is the lowest Investment Grade category, will be selected by NASD, and transaction information on these debt securities will be disseminated. NASD will select the securities in consultation with independent economists who will use the data from these securities as the basis for a study of the effect of price transparency on liquidity. The securities will be selected so that each of the three ratings subcategories for "triple-B"-rated bonds (i.e., Baa1/BBB+, Baa2/BBB, and Baa3/BBB-) will be represented by a group of 30 debt securities.

⁶ The term, "Non-Investment Grade" is defined in TRACE Rule 6210(i).

⁷ 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.

Every such issue shall remain subject to dissemination even if downgraded or upgraded. When an issue is “split-rated” so that one rating is one of the 3 “Baa” or “BBB” ratings set forth above and the second rating is a different “Baa” or “BBB” rating, the lower of the two ratings will be used to determine the category to which a debt security will be assigned under this provision.

TRACE-eligible securities that have a rating from only one of the selected nationally recognized statistical rating organizations will not be selected for inclusion in this group. See proposed Rule 6250(a)(4).

NASD believes the proposed rule change will substantially increase the amount of information available to the public and market participants about the debt markets. If the proposed rule change is approved, over 4,000 TRACE-eligible securities will be subject to dissemination under Rule 6250, which represents approximately 75% of the current average daily trading volume of Investment Grade TRACE-eligible securities.⁸ The proposed rule change substantially exceeds the anticipated increase in dissemination in the second phase of TRACE, “Phase II,” described in the original regulatory scheme approved by the SEC.⁹ In addition, the proposed amendments are crafted to disseminate a large, diverse test group of 90 of the lowest rated Investment Grade TRACE-eligible debt securities to obtain additional empirical data about the impact that dissemination may have on the liquidity of a market or a market sector. Finally,

⁸ Trading volume is the total par value of all Investment Grade TRACE-eligible securities traded (and reported) each day.

⁹ See Securities Exchange Act Release No. 43873 (January 23, 2001); 66 FR 8131 (January 29, 2001) (“Approval Order”). In the Approval Order, the SEC approved Rule 6250, which provided that initially, transaction information on publicly offered, Investment Grade bonds with an initial issuance size of \$1 billion or greater, and the FIPS 50, would be distributed immediately. The SEC also discussed NASD’s plans to phase in the dissemination of additional securities. Under the phase-in schedule, the Bond Transaction Reporting Committee (“BTRC”), an advisory committee of industry representatives, was to advise the NASD Board of Governors regarding liquidity issues. By the end of Phase I (September 30, 2002), the BTRC was obligated to recommend to the NASD Board “dissemination protocols for investment grade bonds, starting with the largest issuance size, that, when combined together, make up the top 50% (by

the BTRC, a committee comprised of industry representatives, fully concurs with the proposal and believes it should be adopted.

[Exemptive Relief]

[Currently, the NASD staff does not have specific, explicit authority to exempt a member from any of the TRACE Rules. In the proposed rule change, NASD proposes changes to Rule 6230 to add a new paragraph (g), which provides that NASD may exempt a member from the provisions of Rule 6230 for good cause shown pursuant to the Rule 9600 Series. In addition, NASD proposes to amend Rule 9610(a) to include Rule 6230 as one of the rules for which exemptive relief may be available to a member. As a result, under the proposed rule change NASD would have authority to consider and grant exemptive relief.]

Other Minor Changes

NASD is proposing minor changes to Rule 6210(e) and Rule 6260. In addition, NASD is proposing administrative changes to various rules the subject of this filing to reflect recent NASD organizational changes.

In Rule 6210(e), NASD is proposing to add the term, “customer,” to the defined term, “party to the transaction.” Under the TRACE Rules, a non-NASD-member customer of a broker-dealer, when buying or selling a security, is considered a “party to the transaction.” In addition, for purposes of the Rule, “customer” includes a broker-dealer that is not an NASD member. NASD believes that Rule 6210(e) would be clearer if the term “customer” is included in the definition of “party to the transaction,” and the Rule clearly states that broker-dealers that are not NASD members are included in the term “customer.”

dollar volume) of such bonds.” 66 FR 8131, 8134. Dissemination of these securities was to begin in Phase II. File No. SR-NASD-99-65.

In addition, NASD is proposing minor changes to Rule 6260 to use the term, “managing underwriter” consistently when referring to a member that is responsible for complying with Rule 6260 and to clarify that the CUSIP number of a TRACE-eligible security must be provided to NASD at all times to comply with Rule 6260(b).

Finally, in the provisions that are subject to other amendments, NASD is deleting the term[s], “Association₂” [and “NASD Regulation”]and substituting the term, “NASD.” These are administrative changes only to reflect recent NASD organizational changes.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, 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 protect investors and the public interest, by among other things, increasing transparency in the fixed income markets[, providing for an exemptive process under Rule 6230,] and clarifying other TRACE Rule provisions.

(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

NASD has requested that the Commission find good cause pursuant to Section 19(b)(2) for approving the proposed rule change prior to the 30th day after publication in the Federal Register.

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. 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].

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

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

Margaret H. McFarland
Deputy Secretary

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NASD-2002-174)

Self-Regulatory Organizations; Notice of Filing
of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to
Increasing Dissemination of Debt Securities Transaction Information Under the TRACE Rules

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 , 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. For the reasons discussed below, NASD is requesting the Commission to grant accelerated approval of the proposed rule change.

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¹ 15 U.S.C. § 78s(b)(1).

² 17 CFR § 240.19b-4.

³ The terms “Investment Grade” and “TRACE-eligible security” are defined in TRACE Rule 6210, Definitions, in paragraphs (h) and (a), respectively.

transaction”; (3) Rule 6260 to make minor clarifications; and, (4) in the provisions referenced in (1) through (3) above, to delete the term “Association” and to replace it with “NASD.” 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 [the Association’s]NASD’s By-Laws and Rules unless otherwise specified.

(b) through (d) No change.

(e) The term “party to the transaction” [“parties to the transaction”] shall mean [the]an introducing broker-dealer, if any, [and the]an executing broker-dealer, or a customer. For the purposes of this Rule, customer includes a broker-dealer that is not an NASD member.

(f) through (i) No change.

* * * * *

6250. Dissemination of Corporate Bond Trade Information

(a) General Dissemination Standard

Immediately upon receipt of transaction reports received at or after 8:00 a.m. through 6:29:59 p.m. Eastern Time, [the Association]NASD will disseminate transaction information (except that market aggregate information and last sale information will not be updated after 5:15 p.m. Eastern Time) [relating to transactions] in[:] the securities described below.

(1) [a] A TRACE-eligible security [having an initial issuance size of \$1 billion or greater]that is Investment Grade at the time of receipt of the transaction report and has an initial issuance size of \$1 billion or greater.]; and]

(2) [a] A TRACE-eligible security that is[designated for dissemination according to the following criteria and is] Non-Investment Grade at the time of receipt of the transaction report and is designated by NASD for dissemination according to the following criteria.

(A) through (B) No change.

(3) A TRACE-eligible security that is Investment Grade, is rated by Moody's Investors Service, Inc. as "A3"⁴ or higher, and by Standard & Poor's, a division of McGraw Hill Co., Inc., as "A-"⁵ or higher, and has an original issue size of \$100 million or greater. If a security is rated under this provision to qualify for dissemination at any time on or after the effective date of the rule, dissemination of transaction information on the security will continue under this paragraph unless the security is downgraded below Baa3/BBB-.

(4) Ninety TRACE-eligible securities designated by NASD that are rated Baa/BBB at the time of designation, according to the following standards.

⁴ Moody's Investors Service, Inc. ("Moody's") is a nationally recognized statistical rating organization. Moody's is a registered trademark of Moody's Investors Service. Moody's ratings are proprietary to Moody's and are protected by copyright and other intellectual property laws. Moody's licenses ratings to NASD. Ratings may not be copied or otherwise reproduced, repackaged, further transmitted, transferred, disseminated, redistributed or resold, or stored for subsequent use for any purpose, in whole or in part, in any form or manner or by any means whatsoever, by a person without Moody's prior written consent.

⁵ Standard & Poor's, a division of the McGraw-Hill Companies, Inc. ("S&P"), is a nationally recognized statistical rating organization. S&P's ratings are proprietary to S&P and are protected by copyright and other intellectual property laws. S&P's licenses ratings to NASD. Ratings may not be copied or otherwise reproduced, repackaged, further transmitted, transferred, disseminated, redistributed or resold, or stored for subsequent use for any such purpose, in whole or in part, in any form or manner or by any means whatsoever, by any person without S&P's prior written consent.

(A) Three groups composed of 30 TRACE-eligible securities (Group 1, Group 2, and Group 3) shall be designated by NASD. At the time of designation, each TRACE-eligible security in Group 1 must be rated “Baa1/BBB+;” and each TRACE-eligible security in Group 2 and Group 3, must be rated, respectively, “Baa2/BBB,” and “Baa3/BBB-,” provided that if a TRACE-eligible security is rated one of the “Baa” ratings by Moody’s and one of the “BBB” ratings by S&P and the ratings indicate two different levels of credit quality, the lower of the two ratings will be used to determine the group to which a debt security will be assigned under paragraph (a)(4).

(B) A TRACE-eligible security that has a rating from only one rating agency will not be designated under paragraph (a)(4).

(C) Dissemination of transaction information on a TRACE-eligible security that is designated under paragraph (a)(4) will not be discontinued if one rating is, or both ratings are downgraded or upgraded.

(b) through (d) No change.

6260. Managing Underwriter Obligation To Obtain CUSIP

(a) No change.

(b) For such TRACE-eligible securities, the managing underwriter must provide to the TRACE Operations Center: (1) the CUSIP number; (2) the issuer name; (3) the coupon rate; (4) the maturity; (5) whether Rule 144A applies; and (6) a brief description of the issue (e.g., senior subordinated note, senior note), or if any of items (2) through (6) [such information] has not been determined, such other information as [the]NASD deems necessary. The managing underwriter must obtain the CUSIP number and provide it and the information listed as (2) through (6) not

later than 5:00 p.m. on the business day preceding the day that the registration statement becomes effective, or, if registration is not required, the day before the securities will be priced. If an issuer notifies [an]a managing underwriter, or the issuer and the managing underwriter determine, that the TRACE-eligible securities of the issuer shall be priced, offered and sold the same business day in an intra-day offering under Rule 415 of the Securities Act of 1933 or Rule 144A of the Securities Act of 1933, the [member] managing underwriter shall provide the information not later than 5:00 p.m. on the day that the securities are priced and offered, provided that if such securities are priced and offered on or after 5:00 p.m., the [member]managing underwriter shall provide the information not later than 5:00 p.m. on the next business day. [A member]The managing underwriter must make a good faith determination that the security is a TRACE-eligible security before submitting the information to the TRACE Operations Center.

* * * * *

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

Increasing Transparency and Dissemination of Information

The main purpose of the proposed rule change is to provide additional transparency in the corporate bond market by increasing the categories of TRACE-eligible securities for which transaction information is required to be disseminated under Rule 6250.

NASD currently requires that transaction information in two types of TRACE-eligible securities be disseminated upon receipt by TRACE. Dissemination is required for: (1) a TRACE-eligible security that is Investment Grade at the time of receipt of the transaction report and has an initial issuance size of \$1 billion or greater (Rule 6250(a)(1)); and, (2) 50 Non-Investment Grade⁶ TRACE-eligible securities that are designated according to volume, price and other standards set forth in Rule 6250(a)(2). Under the current provision, approximately 520 bonds have been subject to dissemination since TRACE began on July 1, 2002.⁷

Under the proposed rule change, NASD will require transaction information to be disseminated in two additional categories of Investment Grade TRACE-eligible securities. First, Investment Grade TRACE-eligible securities of at least \$100 million par value (original issue size) or greater and rated by Moody's as "A3" or higher and S& P as "A-" or higher will be disseminated. In addition, a security in this group will continue to be disseminated even if the rating is downgraded, unless the rating decreases below Baa3/BBB-. (The lower of two ratings,

⁶ The term, "Non-Investment Grade" is defined in TRACE Rule 6210(i).

⁷ 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.

if “split,” will be used to determine if dissemination must be discontinued.) Bonds that have a rating from only one agency will not be included in this group. See proposed Rule 6250(a)(3).

Second, a group of 90 Investment Grade TRACE-eligible securities rated Baa/BBB (or “medium grade”), which is the lowest Investment Grade category, will be selected by NASD, and transaction information on these debt securities will be disseminated. NASD will select the securities in consultation with independent economists who will use the data from these securities as the basis for a study of the effect of price transparency on liquidity. The securities will be selected so that each of the three ratings subcategories for “triple-B”-rated bonds (i.e., Baa1/BBB+, Baa2/BBB, and Baa3/BBB-) will be represented by a group of 30 debt securities. Every such issue shall remain subject to dissemination even if downgraded or upgraded. When an issue is “split-rated” so that one rating is one of the 3 “Baa” or “BBB” ratings set forth above and the second rating is a different “Baa” or “BBB” rating, the lower of the two ratings will be used to determine the category to which a debt security will be assigned under this provision. TRACE-eligible securities that have a rating from only one of the selected nationally recognized statistical rating organizations will not be selected for inclusion in this group. See proposed Rule 6250(a)(4).

NASD believes the proposed rule change will substantially increase the amount of information available to the public and market participants about the debt markets. If the proposed rule change is approved, over 4,000 TRACE-eligible securities will be subject to dissemination under Rule 6250, which represents approximately 75% of the current average daily trading volume of Investment Grade TRACE-eligible securities.⁸ The proposed rule change

⁸ Trading volume is the total par value of all Investment Grade TRACE-eligible securities traded (and reported) each day.

substantially exceeds the anticipated increase in dissemination in the second phase of TRACE, “Phase II,” described in the original regulatory scheme approved by the SEC.⁹ In addition, the proposed amendments are crafted to disseminate a large, diverse test group of 90 of the lowest rated Investment Grade TRACE-eligible debt securities to obtain additional empirical data about the impact that dissemination may have on the liquidity of a market or a market sector. Finally, the BTRC, a committee comprised of industry representatives, fully concurs with the proposal and believes it should be adopted.

Other Minor Changes

NASD is proposing minor changes to Rule 6210(e) and Rule 6260. In addition, NASD is proposing administrative changes to various rules the subject of this filing to reflect recent NASD organizational changes.

In Rule 6210(e), NASD is proposing to add the term, “customer,” to the defined term, “party to the transaction.” Under the TRACE Rules, a non-NASD-member customer of a broker-dealer, when buying or selling a security, is considered a “party to the transaction.” In addition, for purposes of the Rule, “customer” includes a broker-dealer that is not an NASD member. NASD believes that Rule 6210(e) would be clearer if the term “customer” is included in the definition of “party to the transaction,” and the Rule clearly states that broker-dealers that are not NASD members are included in the term “customer.”

⁹ See Securities Exchange Act Release No. 43873 (January 23, 2001); 66 FR 8131 (January 29, 2001) (“Approval Order”). In the Approval Order, the SEC approved Rule 6250, which provided that initially, transaction information on publicly offered, Investment Grade bonds with an initial issuance size of \$1 billion or greater, and the FIPS 50, would be distributed immediately. The SEC also discussed NASD’s plans to phase in the dissemination of additional securities. Under the phase-in schedule, the Bond Transaction Reporting Committee (“BTRC”), an advisory committee of industry representatives, was to advise the NASD Board of Governors regarding liquidity issues. By the end of Phase I (September 30, 2002), the BTRC was obligated to recommend to the NASD Board “dissemination protocols for investment grade bonds, starting with the largest issuance size, that, when combined together, make up the top 50% (by

In addition, NASD is proposing minor changes to Rule 6260 to use the term, “managing underwriter” consistently when referring to a member that is responsible for complying with Rule 6260 and to clarify that the CUSIP number of a TRACE-eligible security must be provided to NASD at all times to comply with Rule 6260(b).

Finally, in the provisions that are subject to other amendments, NASD is deleting the term, “Association,” and substituting the term, “NASD.” These are administrative changes only to reflect recent NASD organizational changes.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, 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 protect investors and the public interest, by among other things, increasing transparency in the fixed income markets and clarifying other TRACE Rule provisions.

(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.

dollar volume) of such bonds.” 66 FR 8131, 8134. Dissemination of these securities was to begin in Phase II. File No. SR-NASD-99-65.

III. DATE OF EFFECTIVENESS OF THE PROPOSED RULE CHANGE AND TIMING FOR COMMISSION ACTION

NASD has requested that the Commission find good cause pursuant to Section 19(b)(2) for approving the proposed rule change prior to the 30th day after publication in the Federal Register.

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. 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].

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

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

Margaret H. McFarland
Deputy Secretary