

## **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 By-Laws and Rules unless otherwise specified.

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

(b) The term "Trade Reporting and Compliance Engine" or "TRACE" shall mean the automated system developed by the NASD that, among other things, accommodates reporting and dissemination of transaction reports where applicable in TRACE-eligible securities.

(c) The term "reportable TRACE transaction" shall mean any secondary market transaction in a TRACE-eligible security except transactions in TRACE-eligible securities that are listed on a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934, when such transactions are executed on, and reported to the exchange and the transaction information is disseminated publicly, or transactions in convertible debt securities that are listed and quoted on the Nasdaq Stock Market, Inc. (Nasdaq), when such transactions are reported to Nasdaq and the transaction information is disseminated publicly.

(d) The term "time of execution" for a transaction in a TRACE-eligible security shall be the time when the parties to the transaction agree to all of the terms of the transaction that are sufficient to calculate the dollar price of the trade. The time of execution for transactions involving TRACE-eligible securities that are trading "when issued" on a yield basis shall be when the yield for the transaction has been agreed to by the parties to the transaction. For a transaction in a TRACE-eligible security in which the actual yield for the transaction is established by determining the yield from one or more designated securities (e.g., a "benchmark security" such as a U.S. Treasury security maturing in 5 years, or a combination of such "benchmark securities") and adding the agreed upon "yield spread" (e.g., 150 basis points above the benchmark security), the "time of execution" occurs when the yield has been agreed to by the parties to the transaction.

(e) The term "parties to the transaction" shall mean the introducing broker-dealer,

if any, and the executing broker-dealer.

(f) The term "TRACE Participant" shall mean any NASD member that reports transactions to the TRACE system, directly or indirectly.

(g) The term "Introducing Broker" shall mean the NASD member that has been identified in the TRACE system as a party to the transaction, but does not execute or clear the transaction.

(h) The term "Investment Grade" shall mean any TRACE-eligible security rated by a nationally recognized statistical rating organization in one of its four highest generic rating categories.

(i) The term "Non-Investment Grade" shall mean any TRACE-eligible security that is unrated, non-rated, split-rated (where one rating falls below Investment Grade), or otherwise does not meet the definition of Investment Grade in paragraph (h) above.

[Adopted by SR-NASD-99-65 eff. July 1, 2002; amended by SR-NASD-2001-91 eff. July 1, 2002; amended by SR-NASD-2002-46 eff. July 1, 2002.]

## **6220. Participation in TRACE**

### **(a) Mandatory Member Participation**

(1) Member participation in TRACE for trade reporting purposes is mandatory. Such mandatory participation obligates members to submit transaction reports in TRACE-eligible securities in conformity with the Rule 6200 Series.

(2) Participation in TRACE shall be conditioned upon the TRACE Participant's initial and continuing compliance with the following requirements:

(A) Execution of, and continuing compliance with, a TRACE Participant application agreement and all applicable rules and operating procedures of the Association and the Commission; and

(B) Maintenance of the physical security of the equipment located on the premises of the TRACE Participant to prevent unauthorized entry of information into TRACE.

(3) Each TRACE Participant shall be obligated to inform the Association of non-compliance with, or changes to, any of the participation requirements set forth above.

### **(b) Participant Obligations in TRACE**

Upon execution and receipt by the Association of the TRACE Participant application agreement, a TRACE Participant may commence input of trade information in TRACE-eligible securities. TRACE Participants may access the service via an NASD-approved facility during the hours of operation.

[Adopted by SR-NASD-99-65 eff. July 1, 2002; amended by SR-NASD-2002-46 eff. July 1, 2002.]

## **6230. Transaction Reporting**

### **(a) When and How Transactions are Reported**

A member that is required to report transaction information pursuant to paragraph (b) below must report such transaction information within one hour and fifteen minutes of the time of execution, except as otherwise provided below, or the transaction report will be "late." The member must transmit the report to TRACE during the hours the TRACE system is open ("TRACE system hours"), which are 8:00 a.m. Eastern Time through 6:29:59 p.m. Eastern Time. Specific trade reporting obligations during a 24-hour cycle are set forth below.

#### **(1) Transactions Executed During TRACE System Hours**

Transactions in TRACE-eligible securities executed on a business day at or after 8:00 a.m. Eastern Time through 6:29:59 p.m. Eastern Time must be reported within one hour and fifteen minutes of the time of execution. If a transaction is executed on a business day less than one hour and fifteen minutes before 6:30 p.m. Eastern Time, a member may report the transaction the next business day within one hour and fifteen minutes after the TRACE system opens. If reporting the next business day, the member must indicate "as/of" and provide the actual transaction date.

#### **(2) Transactions Executed At or After 6:30 P.M. Through 11:59:59 P.M. Eastern Time**

Transactions in TRACE-eligible securities executed on a business day at or after 6:30 p.m. Eastern Time through 11:59:59 p.m. Eastern Time must be reported the next business day within one hour and fifteen minutes after the TRACE system opens. The member must indicate "as/of" and provide the actual transaction date.

#### **(3) Transactions Executed At or After 12:00 A.M. Through 7:59:59 A.M. Eastern Time**

Transactions in TRACE-eligible securities executed on a business day at

or after 12:00 a.m. Eastern Time through 7:59:59 a.m. Eastern Time must be reported the same day within one hour and 15 minutes after the TRACE system opens.

#### **(4) Transactions Executed on a Non-Business Day**

Transactions in TRACE-eligible securities executed on a Saturday, Sunday, or a federal or religious holiday on which the TRACE system is closed, at any time during that day (determined using Eastern Time), must be reported the next business day within one hour and fifteen minutes after the TRACE system opens. The transaction must be reported as follows: the date of execution must be the first business day (the same day the report must be made); the execution time must be "12:01:00 a.m. Eastern Time" (stated in military time as "00:01:00"); and the modifier, "special price," must be selected. In addition, the transaction must not be designated "as/of". When the reporting method chosen provides a "special price memo" field, the member must enter the actual date and time of the transaction in the field.

(5) Members have an ongoing obligation to report transaction information promptly, accurately, and completely. The member may employ an agent for the purpose of submitting transaction information; however, the primary responsibility for the timely, accurate, and complete reporting of transaction information remains the non-delegable duty of the member obligated to report the transaction.

(6) A member may be required to report as soon as practicable to the Market Regulation Department on a paper form, the transaction information required under Rule 6230 if electronic submission into TRACE is not possible. Transactions that can be reported into TRACE, including transactions executed on a Saturday, Sunday or holiday as provided in (a)(4) above, and trades that can be submitted on the trade date or on a subsequent date on an "as/of" basis, shall not be reported on a paper form.

#### **(b) Which Party Reports Transaction**

Trade data input obligations are as follows:

(1) In transactions between two members, both members shall submit a trade report to TRACE;

(2) In transactions involving a member and a non-member, including a customer, the member shall be required to submit a trade report to TRACE.

#### **(c) Transaction Information To Be Reported**

Each TRACE trade report shall contain the following information:

- (1) CUSIP number or NASD symbol;
- (2) Number of bonds as required by paragraph (d) below;
- (3) Price of the transaction (or the elements necessary to calculate price, which are contract amount and accrued interest) as required by paragraph (d) below;
- (4) A symbol indicating whether the transaction is a buy or a sell;
- (5) Date of Trade Execution(as/of trades only);
- (6) Contra-party's identifier;
- (7) Capacity - Principal or Agent (with riskless principal reported as principal) as required by paragraph (d) below;
- (8) Time of trade execution;
- (9) Reporting side executing broker as "give-up" (if any);
- (10) Contra side Introducing Broker in case of "give-up" trade;
- (11) Stated commission;
- (12) Such trade modifiers as required by either the TRACE rules or the TRACE users guide; and
- (13) The lower of yield to call or yield to maturity. A member is not required to report yield when the TRACE-eligible security is a security that is in default; a security for which the interest rate is floating; a security for which the interest rate will be or may be increased (e.g., certain "step-up bonds") or decreased (e.g., certain "step-down bonds") and the amount of increase or decrease is an unknown variable; a pay-in-kind security ("PIK"); any other security where the principal or interest to be paid is an unknown variable or is an amount that is not currently ascertainable, or any other security that the Association designates if the Association determines that reporting yield would provide inaccurate or misleading information concerning the price of, or trading in, the security.

**(d) Procedures for Reporting Price, Capacity, Volume**

- (1) For principal transactions, report the price, which must include the mark-up or mark-down. (However, if a price field is not available, report the contract amount and the accrued interest.) For agency transactions, report the

price, which must exclude the commission. (However, if a price field is not available, report the contract amount and the accrued interest.) Then, report the commission, stated in points per bond, with 1 point equal to \$10.00 per bond.

(2) For agency and principal transactions, report the actual number of bonds traded, with \$1,000 par value equal to 1 bond. If a bond has a par value of less than \$1,000 ("baby bond") or the par value is not an even multiple of \$1,000, report the fractional portion of \$1,000 in decimals.

(3) For in-house cross transactions, a member must report two transactions, which are the member's purchase transaction and the member's sale transaction.

**(4) (A) Special Price Modifier**

If a transaction is not executed at a price that reflects the current market price, select the modifier, "special price." When the reporting method chosen provides a "special price memo" field, state why the transaction was executed at other than the current market price in the "special price memo" field (*e.g.*, when a debt security is traded conventionally and in the current market does not have a due bill and/or a warrant attached, but in the transaction to be reported is traded with a due bill and/or warrant attached, the price of the transaction is a "special price"). Do not select the modifier, "special price," where the transaction price is determined using a weighted average price.

**(B) Settlement Modifiers**

If a transaction is to be settled other than the regular way, report the settlement terms by selecting the appropriate modifier. If the parties agree to settlement on the same day the transaction is executed (*i.e.*, cash settlement), select the modifier, ".c." If a trade will be settled the next day, select the modifier, ".nd." If a trade will be settled other than on the date of trade, the next day, or T+3, select the modifier, ".sNN," and enter the appropriate number of days (*e.g.*, if a trade will be settled in 5 business days, the reporting party will enter ".s05" in the data field).

**(C) Weighted Average Price Modifier**

If the price of the transaction is determined using a weighted average price method, select the modifier, ".w." If one of the settlement modifiers and the weighted average price modifier apply to the transaction, select the modifier, ".w" for weighted average price and do not report the applicable settlement modifier.

**(e) Transactions Not Required To Be Reported**

The following types of transactions shall not be reported:

- (1) Transactions that are part of a primary distribution by an issuer;
- (2) Transactions in securities that are listed on a national securities exchange, when such transactions are executed on and reported to the exchange and the transaction information is disseminated publicly, and transactions in convertible debt securities that are listed and quoted on Nasdaq, when such transactions are reported to Nasdaq and the transaction information is disseminated publicly; and
- (3) Transactions where the buyer and the seller have agreed to trade at a price substantially unrelated to the current market for the TRACE-eligible security (e.g, to allow the seller to make a gift).

**(f) Compliance With Reporting Obligations**

A pattern or practice of late reporting without exceptional circumstances may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of Rule 2110.

[Adopted by SR-NASD-99-65 eff. July 1, 2002; amended by SR-NASD-2001-04 eff. July 1, 2002; amended by SR-NASD-2002-46 eff. July 1, 2002.]

**6240. Termination of TRACE Service**

The Association may, upon notice, terminate TRACE service to a member in the event that a member fails to abide by any of the rules or operating procedures of the TRACE service or the Association, or fails to honor contractual agreements entered into with the Association or its subsidiaries, or fails to pay promptly for services rendered by the TRACE service.

[Adopted by SR-NASD-99-65 eff. July 1, 2002.]

**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 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:

(1) 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

(2) 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.

(A) The staff of NASD will designate fifty of the most actively traded Non-Investment Grade securities that are TRACE-eligible securities for dissemination under this rule, based on (i) the security's volume; (ii) the security's price; (iii) the security's name recognition; (iv) the research following of the security; (v) the security having a minimum number of bonds outstanding; (vi) the security being traded routinely by at least two dealers; and (vii) the security contributing to a representation of diverse industry groups in the group of securities designated for dissemination.

(B) A Non-Investment Grade security will not be designated, and may be immediately withdrawn from designation, for dissemination under this rule if the security: (i) has matured; (ii) has been called; (iii) has been upgraded to Investment Grade; or (iv) has been downgraded to an extent that the security's trading characteristics do not warrant designation for dissemination.

**(b) Transactions Excluded From Market Aggregate, Last Sale**

All trade reports in TRACE-eligible securities that are approved for dissemination and submitted to TRACE at or after 8:00 a.m. Eastern Time and prior to 5:15 p.m. Eastern Time will be included in the calculation of market aggregates and last sale except:

- (1) trades reported on an "as of" basis,
- (2) "when issued" trades executed on a yield basis,
- (3) trades in baby bonds with a par value of less than \$1,000,
- (4) trades in which the price is determined by a weighted average price;

and

(5) trades in which the price is a "special price," as indicated by the use of the special price modifier.

**(c) Dissemination of Certain Trades Executed on A Business Day**



(1) Reports of transactions in TRACE-eligible securities that are subject to dissemination, are executed on a business day at or after 6:30 p.m. Eastern Time through 11:59:59 p.m. Eastern Time, and are reported pursuant to Rule 6230(a)(2) on the next business day and designated “as/of” will be disseminated beginning at 8:00 a.m. Eastern Time on the day of receipt. The reported information will not be included in the calculation of the day's market aggregates.

(2) Reports of transactions in TRACE-eligible securities that are subject to dissemination, are executed on a business day at or after 12:00 a.m. Eastern Time through 7:59:59 a.m. Eastern Time, and are reported pursuant to Rule 6230(a)(3) on the same day beginning at 8:00 a.m. Eastern Time will be disseminated upon receipt. The reported information will be included in the calculation of the day's market aggregates, except as otherwise provided in Rule 6250(b)(1) through (5).

**(d) Dissemination of Trades Executed on Non-Business Days**

Reports of transactions in TRACE-eligible securities that are subject to dissemination, are executed on a non-business day at any time during the day, and are reported pursuant to Rule 6230(a)(4) on the next business day will be disseminated upon receipt. The reported information will not be included in the calculation of the day's market aggregates.

[Adopted by SR-NASD-99-65 eff. July 1, 2002; amended by SR-NASD-2002-46 eff. July 1, 2002.]

**6260. Managing Underwriter Obligation To Obtain CUSIP**

(a) In order to facilitate trade reporting of secondary transactions in TRACE-eligible securities, the member that is the managing underwriter of any newly issued TRACE-eligible security must obtain and provide information to the TRACE Operations Center as required under paragraph (b). If a managing underwriter is not appointed, the group of underwriters must comply with paragraph (b).

(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 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 underwriter, or the issuer and the 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 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 shall provide the information not later than 5:00 p.m. on the next business day. A member must make a good faith determination that the security is a TRACE-eligible security before submitting the information to the TRACE Operations Center.

[Adopted by SR-NASD-99-65 eff. July 1, 2002; amended by SR-NASD-2002-46 eff. July 1, 2002.]