

June 19, 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-2003-099 – Proposed Amendment to Rule 6260 New Issue
Notification Procedures**

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, please contact Sharon K. Zackula, Office of General Counsel, Regulatory Policy and Oversight, at (202) 728-8985, or e-mail her at 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

cc: Stephen L. Williams
Gordon K. Fuller
Mary N. Simpkins

File No. SR-NASD-2003-099
Consists of 16 Pages
June 19, 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 6260(a) and (b) to require members to provide additional, descriptive information in the notice that is sent to NASD and identifies the basic terms of a new TRACE-eligible security (“new issue notification”), and to provide the information required in Rule 6250(b) to NASD by email or facsimile. Rule 6260 is one of the Trade Reporting and Compliance Engine (“TRACE”) rules. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

6200. TRADE REPORTING AND COMPLIANCE ENGINE (TRACE)

6260. Managing Underwriter Obligation To Obtain CUSIP

(a) In order to facilitate trade reporting and dissemination 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 by email or facsimile 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, by email or facsimile: (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)[,]; and, (7) information, as determined by NASD, that is required to determine if a TRACE-eligible security must be disseminated under Rule 6250 (e.g., size of issue and rating), or if any of items (2) through (7)[(6)] has not been determined, such other information as NASD deems necessary. The managing underwriter must obtain the CUSIP number and provide it and the information listed as (2) through (7)[(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 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 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 managing underwriter shall provide the information not later than 5:00 p.m. on the next business day. 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.

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

(a) The proposed rule change was approved by the Board of Governors of NASD at its meeting on November 21, 2002, which authorized the filing of the rule change with the SEC. 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 effective date of the proposed rule change in a Notice to Members to be published no later than 60 days following Commission approval. The effective date will be not more than 30 days following publication of the Notice to Members announcing Commission approval.

(b) Questions regarding this rule filing may be directed to Sharon K. Zackula, Assistant General Counsel, Office of General Counsel, Regulatory Policy and Oversight, at (202) 728-8985.

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

(a) Purpose

NASD Rule 6260 currently requires a member that is the managing underwriter of the initial offering of a TRACE-eligible security to notify NASD and provide certain descriptive information about the security at the time of the initial offering of the security (“new issue notification”). Specifically, Rule 6260(b) currently requires that the new issue notification include: (a) 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., a senior subordinated note, a senior note). In addition, the rule provides, if such information has not been determined, the member must provide such other information as NASD deems necessary. The purpose of Rule 6260 is to require members that are acting in a capacity of managing underwriter or are otherwise designated in the course of an offering of a TRACE-eligible security to notify NASD by

certain times set forth in the rule so that the TRACE system is able to capture, and, when applicable, disseminate transaction information as soon as secondary trading begins.

NASD is proposing to amend Rule 6260(a) and (b) to explicitly require that members provide information relating to dissemination eligibility in the new issue notification. The additional information to be required is the information needed to determine if a new TRACE-eligible security is subject to dissemination.

The current “phasing-in” of dissemination was developed in response to industry concerns that dissemination might adversely affect the bond markets.¹ Certain market participants urged that dissemination occur over time, by phasing in the requirement for specifically defined groups of securities with certain characteristics. To properly administer dissemination, NASD must obtain and assess information about a TRACE-eligible security to determine if dissemination is required under Rule 6250 at the same time that NASD obtains identifying information about a new TRACE-eligible security to properly and timely enter the security into the TRACE system.

The proposed additional information requirements in Rule 6260 are directly related to the increasing complexity of the dissemination requirements in effect and anticipated under Rule 6250.² Recently, the SEC approved amendments to Rule 6250 that established additional criteria for determining dissemination.³ NASD must review the additional criteria, such as the original

¹ See Securities Exchange Act Release No. 43873 (January 23, 2001), 66 FR 8131, 8133-8135, 8141-8142 (January 29, 2001) (order approving SR-NASD-99-65).

² On July 1, 2002, when TRACE began, under Rule 6250, NASD was required to disseminate transaction information on only two categories of TRACE-eligible securities: (1) Investment Grade securities having an initial issuance size of \$1 billion or greater; and, (2) 50 Non-Investment Grade securities designated by NASD according to a variety of criteria set forth in the Rule. See Rule 6250(a)(1) and (2), respectively.

³ On January 31, 2003, the SEC approved amendments to Rule 6250, requiring NASD to disseminate transaction information on two additional categories of debt securities. Under new paragraph (a)(3) of

issue size and the ratings of a new TRACE-eligible security, to determine if the transaction information for a security must be disseminated under Rule 6250.⁴ This information is readily available to members responsible for compliance with Rule 6260 in a particular offering, and members would be able to provide this additional information as part of the Rule 6260 compliance process with little difficulty. Moreover, in the future, NASD may propose additional standards for dissemination to the SEC under Rule 6250. If additional standards are proposed and adopted, NASD would be required to identify and analyze additional characteristics of a security to determine if the security is subject to dissemination immediately before trading begins. The

Rule 6250, NASD disseminates transaction information on any TRACE-eligible security that is Investment Grade, is rated by Moody's Investors Service, Inc. as "A3" or higher, and by Standard & Poor's, a division of McGraw Hill Co., Inc. as "A-" or higher, and has an original issue size of \$100 million or greater. Under new paragraph (a)(4), NASD disseminates transaction information on approximately 120 TRACE-eligible securities designated by NASD that are rated "Baa/BBB" at the time of designation. *See* Securities Exchange Act Release No. 47302 (January 31, 2003), 68 FR 6233 (February 6, 2003) (order approving SR-NASD-2002-174), and Securities Exchange Act Release No. 47566 (March 25, 2003), 68 FR 15490 (March 31, 2003) (notice of filing and immediate effectiveness of SR-NASD-2003-41).

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 any person without Moody's prior written consent.

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 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 any person without S&P's prior written consent.

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For example, to administer the current dissemination provisions of Rule 6250, when a member provides NASD a new issue notification, generally NASD would expect the member to include both the original issue size of the offering and the rating of the security.

proposed amendment to Rule 6260(b), as drafted, will allow NASD to require members to submit the descriptive information that is then relevant in making a dissemination determination under Rule 6250.

NASD is also proposing that the new issue notification be submitted via email or facsimile to NASD. Currently, many members e-mail the new issue notification to NASD. Some members have provided the new issue notification by telephone. Members that provide the new issue notification by telephone would be required to provide it by email or a facsimile in order to comply with the proposed amendment.

(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 enhance transparency in the debt securities markets and will provide NASD, as the self-regulatory organization designated to regulate the over-the-counter markets, with heightened capabilities to regulate and provide surveillance of the debt securities markets to prevent fraudulent and manipulative acts and practices for the protection of investors and the public interest.

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)

Not applicable.

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.

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

June 19, 2003

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NASD-2003-099)

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Proposed Amendment to Rule 6260 Regarding New Issue Notification Procedures for TRACE-Eligible Securities

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, the Commission is granting 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 Rule 6260(a) and (b) to require members to provide additional, descriptive information in the notice that is sent to NASD and identifies the basic terms of a new TRACE-eligible security (“new issue notification”), and to provide the information required in Rule 6250(b) by e-mail or facsimile. Rule 6260 is one of the Trade Reporting and Compliance Engine (“TRACE”) rules. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

¹ 15 U.S.C. 78s(b)(1).

6200. TRADE REPORTING AND COMPLIANCE ENGINE (TRACE)

6260. Managing Underwriter Obligation To Obtain CUSIP

(a) In order to facilitate trade reporting and dissemination 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 by email or facsimile 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, by email or facsimile: (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)[,]; and, (7) information, as determined by NASD, that is required to determine if a TRACE-eligible security must be disseminated under Rule 6250 (e.g., size of issue and rating), or if any of items (2) through (7)[(6)] has not been determined, such other information as NASD deems necessary. The managing underwriter must obtain the CUSIP number and provide it and the information listed as (2) through (7)[(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 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 managing underwriter shall provide the information not later than 5:00 p.m. on

² 17 CFR 240.19b-4.

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 managing underwriter shall provide the information not later than 5:00 p.m. on the next business day. 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

NASD Rule 6260 currently requires a member that is the managing underwriter of the initial offering of a TRACE-eligible security to notify NASD and provide certain descriptive information about the security at the time of the initial offering of the security ("new issue notification"). Specifically, Rule 6260(b) currently requires that the new issue notification include: (a) 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., a senior subordinated note, a senior note). In addition, the rule provides, if such information has not been determined,

the member must provide such other information as NASD deems necessary. The purpose of Rule 6260 is to require members that are acting in a capacity of managing underwriter or are otherwise designated in the course of an offering of a TRACE-eligible security to notify NASD by certain times set forth in the rule so that the TRACE system is able to capture, and, when applicable, disseminate transaction information as soon as secondary trading begins.

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for determining dissemination.⁵ NASD must review the additional criteria, such as the original issue size and the ratings of a new TRACE-eligible security, to determine if the transaction information for a security must be disseminated under Rule 6250.⁶ This information is readily available to members responsible for compliance with Rule 6260 in a particular offering, and members would be able to provide this additional information as part of the Rule 6260 compliance process with little difficulty. Moreover, in the future, NASD may propose additional standards for dissemination to the SEC under Rule 6250. If additional standards are proposed and adopted, NASD would be required to identify and analyze additional characteristics of a security to

an initial issuance size of \$1 billion or greater; and, (2) 50 Non-Investment Grade securities designated by NASD according to a variety of criteria set forth in the Rule. See Rule 6250(a)(1) and (2), respectively.

⁵ On January 31, 2003, the SEC approved amendments to Rule 6250, requiring NASD to disseminate transaction information on two additional categories of debt securities. Under new paragraph (a)(3) of Rule 6250, NASD disseminates transaction information on any TRACE-eligible security that is Investment Grade, is rated by Moody's Investors Service, Inc. as "A3" or higher, and by Standard & Poor's, a division of McGraw Hill Co., Inc. as "A-" or higher, and has an original issue size of \$100 million or greater. Under new paragraph (a)(4), NASD disseminates transaction information on approximately 120 TRACE-eligible securities designated by NASD that are rated "Baa/BBB" at the time of designation. See Securities Exchange Act Release No. 47302 (January 31, 2003), 68 FR 6233 (February 6, 2003) (order approving SR-NASD-2002-174), and Securities Exchange Act Release No. 47566 (March 25, 2003), 68 FR 15490 (March 31, 2003) (notice of filing and immediate effectiveness of SR-NASD-2003-41).

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⁶ For example, to administer the current dissemination provisions of Rule 6250, when a member provides NASD a new issue notification, generally NASD would expect the member to include both the original issue size of the offering and the rating of the security.

determine if the security is subject to dissemination immediately before trading begins. The proposed amendment to Rule 6260(b), as drafted, will allow NASD to require members to submit the descriptive information that is then relevant in making a dissemination determination under Rule 6250.

NASD is also proposing that the new issue notification be submitted via email or facsimile to NASD. Currently, many members e-mail the new issue notification to NASD. Some members have provided the new issue notification by telephone. Members that provide the new issue notification by telephone would be required to provide it by email or a facsimile in order to comply with the proposed amendment.

(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 enhance transparency in the debt securities markets and will provide NASD, as the self-regulatory organization designated to regulate the over-the-counter markets, with heightened capabilities to regulate and provide surveillance of the debt securities markets to prevent fraudulent and manipulative acts and practices for the protection of investors and the public interest.

(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

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, including whether the proposed rule change is consistent with the Act. 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 H. McFarland
Deputy Secretary