

March 17, 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 – 41 Proposal to Disseminate Up to Thirty Additional Corporate Bonds Under Trade Reporting and Compliance Engine Rules (“TRACE Rules”)

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 Zackula, Office of General Counsel, Regulatory Policy and Oversight, 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

cc: Stephen Williams
Gordon Fuller
Mary Simpkins

File No. SR-NASD-2003-41
Consists of 16 Pages
March 17, 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 6250(a)(4) to increase the number of TRACE-eligible securities to be disseminated under the rule from 90 securities to up to 120 securities. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

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, 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) in the securities described below.

(1) No Change.

(2) No Change.

(3) No Change.

(4) Ninety to 120 TRACE-eligible securities designated by NASD that are rated “Baa/BBB” at the time of designation, according to the following standards.

(A) Three groups, each composed of up to 50 [30]TRACE-eligible securities (Group 1, Group 2, and Group 3), but collectively not exceeding 120, 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]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 this paragraph (a)(4).

(B) No Change.

(C) No Change.

(b) through (d) No Change.

* * * * *

(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. As further discussed below, the proposed rule change has been filed by NASD as a “non-controversial” rule change and is effective upon filing pursuant to Section 19(b)(3)(A) of the Act and paragraph (f)(6) of Rule 19b-

4 thereunder.¹ NASD will announce the implementation date of the proposed rule change in a Notice to Members to be published after the filing of this rule change with the Commission.

(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

The purpose of the proposed rule change is to amend Rule 6250(a)(4) to increase the number of TRACE-eligible securities rated “Baa/BBB”² that will be subject to dissemination from 90 bonds to up to 120 bonds. This minor adjustment in the number of “Baa/BBB”-rated bonds to be disseminated under the Trade Reporting and Compliance Engine (“TRACE”) rules is being proposed so that NASD may continue to increase transparency as appropriate, while being cognizant of the potential adverse effects, if any, that transparency may have on the liquidity of the corporate bond market.

On July 1, 2002, when TRACE began, transaction information was disseminated in two types of corporate bonds: (1) TRACE-eligible securities having an initial issuance size of \$1

¹ 17 CFR 240.19b-4(f)(6).

² 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.

billion or greater that are Investment Grade at the time of receipt of the transaction report; and (2) 50 actively traded TRACE-eligible securities that are Non-Investment Grade and meet other criteria set forth in Rule 6250(a)(2). Approximately 540 corporate bonds were disseminated under the two categories.

On December 6, 2002, NASD filed SR-NASD-2002-174, a proposal to increase substantially the dissemination of Investment Grade TRACE-eligible securities. NASD proposed to, and obtained approval from, the SEC to increase transparency by requiring dissemination of price and other transaction information in two additional categories of corporate bonds. They are: (1) any TRACE-eligible security that is Investment Grade, is rated by Moody's as "A3" or higher, and by S&P's as "A-" or higher, and has an original issue size of \$100 million or greater; and (2) ninety TRACE-eligible securities rated "Baa/BBB" at the time of designation, with the bonds being identified in three subgroups to represent the "Baa/BBB" credit spectrum (*i.e.*, "Baa1/BBB+," "Baa2/BBB," and "Baa3/BBB-").³

On March 3, 2003, NASD began disseminating the TRACE-eligible securities rated "A3/A-" or higher and with original issue size of 100 million or greater, which increased the number of bonds subject to dissemination to over 4,000 corporate bonds.⁴ However, NASD withheld the dissemination of ninety bonds rated "Baa/BBB" to provide time to assure that the bonds designated for dissemination were appropriately diverse and representative of the "Baa/BBB"-rated group. During the bond identification process, NASD, based on guidance from independent economists, determined that the database of disseminated transaction data on "triple-

³ Securities Exchange Act Release No. 47302 (January 31, 2003), 68 FR 6233 (February 6, 2003) (order approving SR-NASD-2002-174).

⁴ See NASD Notice to Members 03-12 (February 2003).

B-rated bonds” should be increased to include transaction information on up to 120 TRACE-eligible securities to increase transparency in a sufficient number of “Baa/BBB” bonds to improve significantly the quality of the data to be collected. The increased transparency will provide a better foundation for determining the effect, if any, of transparency on liquidity.

(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 requiring the dissemination of up to 30 additional “Baa/BBB”-rated TRACE-eligible securities will protect investors and the public interest by increasing transparency in the debt securities markets and serving as an appropriately designed database to aid NASD in determining if transparency has an adverse effect on the liquidity of the bond market.

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 on this particular proposed rule change were neither solicited nor received. However, written comments were solicited concerning the dissemination of a representative group of bonds rated “Baa/BBB” with the publication for notice and comment of SR-NASD-2002-174, and two comment letters were received, which generally favored the

NASD's proposed rule change.⁵ After considering the comments, the SEC approved SR-NASD-2002-174 on January 31, 2003.⁶ NASD's proposal in this rule filing is a minor, non-controversial proposed change to the provision in Rule 6250(a)(4) providing for the dissemination of TRACE-eligible securities rated "Baa/BBB."

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The proposed rule change has been filed by NASD as a "non-controversial" rule change and is effective upon filing pursuant to Section 19(b)(3)(A) of the Act and paragraph (f)(6) of Rule 19b-4 thereunder,⁷ in that the proposed rule change does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition. NASD requested that the Commission waive the written notice of its intent to file the proposed rule change set forth in Rule 19b-4(f)(6)(iii). In addition, NASD has requested that the Commission waive the requirement that the rule change not become operative for 30 days after the date of the filing, as set forth in Rule 19b-4(f)(6)(iii), because (1) the public interest is furthered and the protection of investors is enhanced by increasing transparency in the "Baa/BBB"-rated segment of the corporate bond market; (2) NASD briefly deferred starting the dissemination of "Baa/BBB"-rated TRACE-eligible securities in order to designate a representative group of such securities; and (3) for the convenience of investors, broker-dealers,

⁵ Securities Exchange Act Release No. 47057 (December 19, 2002), 67 FR 79210 (December 27, 2002) (notice of filing of and request for comment on SR-NASD-2002-174).

⁶ See note 3, *supra*.

other market participants, and NASD, NASD will initiate the dissemination of *all* the “Baa/BBB”-rated corporate bonds approved for dissemination on the same date, which will occur as soon as possible after the filing of this rule filing.

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

BY: _____
Barbara Z. Sweeney , Senior Vice President and
Corporate Secretary

Date: March 17, 2003

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NASD-2003-41)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. to Disseminate Up to Thirty Additional Corporate Bonds

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 March 17, 2003, 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. NASD has designated the proposed rule change as constituting a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 under the Act,³ which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

NASD is proposing to amend Rule 6250(a)(4) to increase the number of TRACE-eligible securities to be disseminated under the rule from 90 securities to up to 120 securities. 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).

² 17 CFR § 240.19b-4.

³ 17 CFR § 240.19b-4.

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, 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) in the securities described below.

(1) No Change.

(2) No Change.

(3) No Change.

(4) Ninety to 120 TRACE-eligible securities designated by NASD that are rated “Baa/BBB” at the time of designation, according to the following standards.

(A) Three groups, each composed of up to 50 [30]TRACE-eligible securities (Group 1, Group 2, and Group 3), but collectively not exceeding 120 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] 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 this paragraph (a)(4).

(B) No Change.

(C) No Change.

(b) through (d) No Change.

* * * * *

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

The purpose of the proposed rule change is to amend Rule 6250(a)(4) to increase the number of TRACE-eligible securities rated “Baa/BBB”⁴ that will be subject to dissemination from 90 bonds to up to 120 bonds. This minor adjustment in the number of “Baa/BBB”-rated bonds to be disseminated under the Trade Reporting and Compliance Engine (“TRACE”) rules is being proposed so that NASD may continue to increase transparency as appropriate, while being

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cognizant of the potential adverse effects, if any, that transparency may have on the liquidity of the corporate bond market.

On July 1, 2002, when TRACE began, transaction information was disseminated in two types of corporate bonds: (1) TRACE-eligible securities having an initial issuance size of \$1 billion or greater that are Investment Grade at the time of receipt of the transaction report; and (2) 50 actively traded TRACE-eligible securities that are Non-Investment Grade and meet other criteria set forth in Rule 6250(a)(2). Approximately 540 corporate bonds were disseminated under the two categories.

On December 6, 2002, NASD filed SR-NASD-2002-174, a proposal to increase substantially the dissemination of Investment Grade TRACE-eligible securities. NASD proposed to, and obtained approval from the SEC, to increase transparency by requiring dissemination of price and other transaction information in two additional categories of corporate bonds. They are: (1) any TRACE-eligible security that is Investment Grade, is rated by Moody's as "A3" or higher, and by S&P's as "A-" or higher, and has an original issue size of \$100 million or greater; and (2) ninety TRACE-eligible securities rated "Baa/BBB" at the time of designation, with the bonds being identified in three subgroups to represent the "Baa/BBB" credit spectrum (*i.e.*, "Baa1/BBB+," "Baa2/BBB," and "Baa3/BBB-").⁵

On March 3, 2003, NASD began disseminating the TRACE-eligible securities rated "A3/A-" or higher and with original issue size of 100 million or greater, which increased the number of bonds subject to dissemination to over 4,000 corporate bonds.⁶ However, NASD withheld the dissemination of ninety bonds rated "Baa/BBB" to provide time to assure that the

⁵ Securities Exchange Act Release No. 47302 (January 31, 2003), 68 FR 6233 (February 6, 2003) (order approving SR-NASD-2002-174).

⁶ See NASD Notice to Members 03-12 (February 2003).

bonds designated for dissemination were appropriately diverse and representative of the “Baa/BBB”-rated group. During the bond identification process, NASD, based on guidance from independent economists, determined that the database of disseminated transaction data on “triple-B-rated bonds” should be increased to include transaction information on up to 120 TRACE-eligible securities to increase transparency in a sufficient number of “Baa/BBB” bonds to improve significantly the quality of the data to be collected. The increased transparency will provide a better foundation for determining the effect, if any, of transparency on liquidity.

(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 requiring the dissemination of up to 30 additional “Baa/BBB”-rated TRACE-eligible securities will protect investors and the public interest by increasing transparency in the debt securities markets and serving as an appropriately designed database to aid NASD in determining if transparency has an adverse effect on the liquidity of the bond market.

(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 on this particular proposed rule change were neither solicited nor received. However, written comments were solicited concerning the dissemination of a representative group of bonds rated “Baa/BBB” with the publication for notice and comment of SR-NASD-2002-174, and two comment letters were received, which generally favored the NASD’s proposed rule change.⁷ After considering the comments, the SEC approved SR-NASD-2002-174 on January 31, 2003.⁸ NASD’s proposal in this rule filing is a minor, non-controversial proposed change to the provision in Rule 6250(a)(4) providing for the dissemination of TRACE-eligible securities rated “Baa/BBB.”

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

The proposed rule change has been filed by NASD as a “non-controversial” rule change and is effective upon filing pursuant to Section 19(b)(3)(A) of the Act and paragraph (f)(6) of Rule 19b-4 thereunder⁹ in that the proposed rule change does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition. NASD has requested that the Commission waive the written notice of its intent to file the proposed rule change set forth in Rule 19b-4(f)(6)(iii). In addition, NASD has requested that the Commission waive the requirement that the rule change not become operative for 30 days after the date of the filing, as set forth in Rule 19b-4(f)(6)(iii), because (1) the public interest is furthered and the protection of investors is enhanced by increasing transparency in the

⁷ Securities Exchange Act Release No. 47057 (December 19, 2002), 67 FR 79210 (December 27, 2002) (notice of filing of and request for comment on SR-NASD-2002-174).

⁸ See note 5, *supra*.

“Baa/BBB”-rated segment of the corporate bond market; (2) NASD briefly deferred the dissemination of “Baa/BBB”-rated TRACE-eligible securities in order to designate a representative group of such securities; and (3) for the convenience of investors, broker-dealers, other market participants, and NASD, NASD will initiate the dissemination of all the “Baa/BBB”-rated corporate bonds approved for dissemination on the same date, which will occur as soon as possible after the filing of this rule filing. Therefore, the proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

At any time within 60 days of this filing, the Commission may summarily abrogate this proposal if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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

⁹ 17 CFR § 240.19b-4(f)(6).

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