

Proposed Rule Change by National Association of Securities Dealers
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial <input checked="" type="checkbox"/>	Amendment <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input type="checkbox"/>	Section 19(b)(3)(A) <input checked="" type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action <input type="checkbox"/>		Date Expires <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4) <input type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(5) <input type="checkbox"/> 19b-4(f)(3) <input checked="" type="checkbox"/> 19b-4(f)(6)		

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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Description
Provide a brief description of the proposed rule change (limit 250 characters).

Proposed rule change to amend Rule 7010(k) to terminate a TRACE fee pilot program and a second TRACE fee and to change the Stage Two implementation date of SR-NASD-2004-094 from February 1, 2005 to February 7, 2005.

Contact Information
Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name	<input type="text" value="Sharon"/>	Last Name	<input type="text" value="Zackula"/>
Title	<input type="text" value="Associate General Counsel"/>		
E-mail	<input type="text" value="sharon.zackula@nasd.com"/>		
Telephone	<input type="text" value="(202) 728-8985"/>	Fax	<input type="text" value="(202) 728-8264"/>

Signature
Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date	<input type="text" value="12/29/2004"/>		
By	<table border="1" style="width: 100%;"> <tr> <td style="width: 60%;"><input type="text" value="Patrice M. Gliniecki"/> (Name)</td> <td style="width: 40%;"><input type="text" value="Senior Vice President and Deputy General Counsel"/> (Title)</td> </tr> </table>	<input type="text" value="Patrice M. Gliniecki"/> (Name)	<input type="text" value="Senior Vice President and Deputy General Counsel"/> (Title)
<input type="text" value="Patrice M. Gliniecki"/> (Name)	<input type="text" value="Senior Vice President and Deputy General Counsel"/> (Title)		

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(3) 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 7010(k) to terminate the Bond Trade Dissemination Service (“BTDS”) Professional Delayed-Time Data Display Fee pilot program and the BTDS Non-Professional Real-Time Data Display fee, relating to Trade Reporting and Compliance Engine (“TRACE”) transaction data fees, and to amend the implementation date of certain amendments to NASD Rule 6250, relating to TRACE transaction data dissemination and approved by the SEC in SR-NASD-2004-094 (designated as “Stage Two” of the implementation of SR-NASD-2004-094) from February 1, 2005 to February 7, 2005. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

7010. System Services

(a) through (j) No change.

(k) Trade Reporting and Compliance Engine

The following charges shall be paid by participants for the use of the Trade Reporting and Compliance Engine (“TRACE”):

System Fees	Transaction Reporting Fees	Market Data Fees
Level I Trade Report Only Web Browser Access - \$20/month per user ID Level II Full Service Web Browser Access - \$80/month per user ID	Trades up to and including \$200,000 par value - \$0.475/trade; Trades between \$201,000 and \$999,999 par value - \$0.002375 times the number of bonds traded/trade; Trades of \$1,000,000 par value or more - \$2.375/trade	BTDS Professional Real-Time Data Display - \$60/month per terminal, except
CTCI/Third Party - \$25/month/per firm	Cancel/Correct - \$1.50/trade	[BTDS Professional Delayed-Time Data Display - \$15/month per terminal]
	“As of” Trade Late - \$3/trade	BTDS Internal Usage Authorization - \$500/month per application/service for Real-Time and Delayed-Time Data
		BTDS External Usage Authorization - \$1,000/month per application/service for Real-Time and Delayed-Time Data
		BTDS Non-Professional Real-Time Data Display – <u>No charge</u> [\$1/month per terminal]

(1) through (2) No change.

(3) Market Data Fees

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

(A) Professional Fees

Professionals may subscribe for the following:

(i) No change.

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

(iii) through (iv) No change.

(B) Non-Professional Fees

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

(C) through (D) No change.

(l) through (u) No change.

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The portion of the proposed rule change regarding proposed amendments to NASD Rule 7010(k), and the portion of the proposed rule change to revise the implementation date of Stage Two of SR-NASD-2004-094 were approved by the Board of Governors of NASD, Inc. (“Board”) at Board meetings on November 18, 2004, and April 22, 2004, respectively, 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 Board to adopt amendments to NASD Rules without recourse to the membership for approval.

The implementation date for Stage Two of SR-NASD-2004-094 will be February 7, 2005. NASD will announce all implementation dates of the proposed rule change in Notices to Members to be published no later than 30 days following Commission notice of the filing of the rule change for immediate effectiveness. The implementation dates regarding proposed amendments to TRACE fees will be no more than 120 days after publication of the related Notice to Members.

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

(a) Purpose

NASD is proposing to amend Rule 7010(k) to terminate the BTDS Professional Delayed-Time Data Display Fee pilot program and the BTDS Non-Professional Real-Time Data Display fee. Both fees are for TRACE transaction information. In addition, NASD is proposing to change the implementation date of Stage Two of SR-NASD-2004-094. Implementation of Stage Two will make operative certain amendments to NASD

Rule 6250 that provide for the delayed dissemination of information on designated transactions in TRACE-eligible securities.

1. TRACE Fees.

a. BTDS Professional Delayed-Time Data Display Fee Pilot Program.

NASD currently has in place a pilot program that charges for TRACE transaction information provided to professionals on a delayed basis. The charge for this pilot program is the BTDS Professional Delayed-Time Data Display Fee of \$15 per month and is imposed per terminal for each interrogation or display device receiving the delayed data. The pilot program commenced on February 1, 2004.¹

NASD has recently begun a comprehensive review of TRACE fees. As part of this review, NASD has determined to terminate the BTDS Professional Delayed-Time Data Display Fee and service because the demand for the service was limited.

b. BTDS Non-Professional Real-Time Data Display Fee.

NASD currently charges a minimal fee of \$1.00 per month/per terminal for its BTDS Non-Professional Real-Time Data Display service, which allows non-professionals to view TRACE data on a real-time basis.² NASD is proposing to eliminate the \$1.00 BTDS Non-Professional Real-Time Data Display Fee for individual investors who are users of this real-time TRACE market data.

Wider distribution of TRACE data is a cornerstone of a broader effort to better

¹ The pilot program was recently extended to July 31, 2005. *See* Securities Exchange Act Release No. 50627 (November 3, 2004); 69 FR 65005 (November 9, 2004) (File No. SR-NASD-2004-163, filed for immediate effectiveness on October 26, 2004).

² A “non-professional” is defined in Rule 7010(k)(3)(C)(ii) and is limited by definition to natural persons. In addition, generally the term excludes any principal, partner, employee, or other person acting

educate individual investors about the corporate bond market. NASD proposes to eliminate the fee to remove any financial barriers to the broad-based distribution of TRACE data and encourage websites and other media outlets to widely redistribute real-time data to individual investors.

2. Implementation Date of Stage Two of SR-NASD-2004-094.

NASD proposes to amend the implementation date of Stage Two of SR-NASD-2004-094. Stage Two requires the implementation of certain amendments to NASD Rule 6250 that provide for the delayed dissemination of information on designated transactions in TRACE-eligible securities.³

in any capacity in the financial services industry, and any person engaged in or intending to engage in any redistribution of TRACE data.

³ SR-NASD-2004-94 was approved for implementation in two stages. The implementation date of Stage One was October 1, 2004. *See* Securities Exchange Act Release No. 50317 (September 3, 2004), 69 FR 55202 (September 13, 2004) (File No. SR-NASD-2004-094) (“SEC Approval Order”). *See also* NASD Notice to Members 04-65 (September 2004).

NASD proposes to change the implementation date of Stage Two from February 1, 2005, to February 7, 2005. Specifically, NASD will implement on February 7, 2005: (1) Rule 6250(a)(1) and (2); (2) the portion of Rule 6250(b)(1)(C)(i) not effective as of October 1, 2004;⁴ and (3) Rule 6250(b)(2). Changing the implementation date will allow NASD to implement Stage Two on a Monday, rather than a Tuesday, which will reduce operational implementation issues.

As noted in Section 2 of this filing, the implementation date for Stage Two of SR-NASD-2004-094 will be February 7, 2005. NASD will announce all implementation dates of the proposed rule change in Notices to Members to be published no later than 30 days following Commission notice of filing of the rule change for immediate effectiveness. The implementation dates regarding proposed amendments to TRACE fees will be no more than 120 days after publication of the related Notice to Members.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act, which requires, among other things, that NASD rules provide for the equitable allocation of reasonable dues, fees and other charges among

⁴ Rule 6250(b)(1)(C)(i) provides for the immediate dissemination of transactions in TRACE-eligible securities that are rated BB (or the equivalent rating of one or more nationally recognized statistical rating organizations) or lower and are executed other than during the New Issue Aftermarket-10, if the size of the transaction is \$1 million or less. (The term "New Issue Aftermarket-10" is defined in Rule 6250(a)(2).) During Stage One, NASD partially implemented Rule 6250(b)(1)(C)(i) by disseminating such transactions but only if larger transactions (*i.e.*, "\$1 million plus" transactions) in the same TRACE-eligible security were also subject to dissemination during Stage One. ("\$1 million plus" transactions in the same TRACE-eligible security were disseminated only if the TRACE-eligible security traded an average of one or more times per day, as provided in Rule 6250(b)(1)(C)(ii).) Transactions in TRACE-eligible securities described in Rule 6250(b)(1)(C)(i) that would otherwise be subject to immediate dissemination, but occurred in a security that is traded an average of less than one time per day and in which "\$1 million plus" transactions are subject to dissemination delays under Rule 6250(b)(2)(A) or Rule 6250(b)(2)(B), were not disseminated during Stage One, but will begin to be disseminated when Stage Two is implemented. *See* SEC Approval Order. *See also* NASD Notice to Members 04-65 (September 2004).

members and issuers and other persons using any facility or system that NASD operates or controls, and the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that NASD rules 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. The elimination of the BTDS Professional Delayed-Time Data Display Fee will equitably allocate fees among subscribers of TRACE data that desire timely data for commercial use or benefit and will not adversely affect the use and distribution of TRACE data, which provides information on TRACE-eligible securities, protecting investors in the market and furthering the public interest. In addition, the elimination of the BTDS Non-Professional Real-Time Data Display Fee will promote the widespread distribution of transaction information about corporate bonds to the public and provide the public with additional information about investments in debt securities, which is in furtherance of the protection of investors and the public interest. Finally, implementing the changes to Rule 6250 on Monday, February 7, 2005, will minimize any potential operational implementation issues in furtherance of 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**

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 is effective upon filing pursuant to Section 19(b)(3) of the Act and paragraph (f)(6) of Rule 19b-4 thereunder, in that the proposed rule change does not significantly affect the protection of investors or the public interest; does not impose any significant burden on competition; and does not become operative for 30 days after filing. In accordance with Rule 19b-4, NASD submitted written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing. NASD proposes to make operative: (i) the portion of the proposed rule change to revise the implementation date of Stage Two of SR-NASD-2004-094 on February 7, 2005; and (ii) the portion of the proposed rule change to amend Rule 7010(k) no later than 150 days following Commission notice of the filing of the rule change for immediate effectiveness.

8. **Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

Not applicable.

9. **Exhibits**

Exhibit 1. Completed notice of proposed rule change for publication in the Federal Register.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-NASD-2004-189)

SELF-REGULATORY ORGANIZATIONS

Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Transaction Reporting and Compliance Engine (“TRACE”) Fees and Implementation Date of Stage Two of Dissemination of TRACE Transaction Information

Pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on [leave space] , 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 7010(k) to terminate the Bond Trade Dissemination Service (“BTDS”) Professional Delayed-Time Data Display Fee pilot program and the BTDS Non-Professional Real-Time Data Display fee, relating to Trade Reporting and Compliance Engine (“TRACE”) transaction data fees, and to amend the

¹ 15 U.S.C. 78s(b)(3).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4.

implementation date of certain amendments to NASD Rule 6250, relating to TRACE transaction data dissemination and approved by the SEC in SR-NASD-2004-094 (designated as “Stage Two” of the implementation of SR-NASD-2004-094) from February 1, 2005 to February 7, 2005. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

7010. System Services

(a) through (j) No change.

(k) Trade Reporting and Compliance Engine

The following charges shall be paid by participants for the use of the Trade Reporting and Compliance Engine (“TRACE”):

System Fees	Transaction Reporting Fees	Market Data Fees
Level I Trade Report Only Web Browser Access - \$20/month per user ID Level II Full Service Web Browser Access - \$80/month per user ID	Trades up to and including \$200,000 par value - \$0.475/trade; Trades between \$201,000 and \$999,999 par value - \$0.002375 times the number of bonds traded/trade; Trades of \$1,000,000 par value or more - \$2.375/trade	BTDS Professional Real – Time Data Display - \$60/month per terminal, except
CTCI/Third Party - \$25/month/per firm	Cancel/Correct - \$1.50/trade	[BTDS Professional Delayed-Time Data Display - \$15/month per terminal]
	“As of” Trade Late - \$3/trade	BTDS Internal Usage Authorization - \$500/month per application/service for Real-Time and Delayed Time Data

		BTDS External Usage Authorization - \$1,000/month per application/service for Real-Time and Delayed-Time Data
		BTDS Non-Professional Real-Time Data Display – <u>No charge</u> [\$1/month per terminal]

(1) through (2) No change.

(3) Market Data Fees

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

(A) Professional Fees

Professionals may subscribe for the following:

- (i) No change.
- (ii) Reserved. [For a pilot period commencing February 1, 2004, and lasting through July 31, 2005, BTDS Professional Delayed-Time Data Display Fee of \$15 per month, per terminal charge for each interrogation or display device receiving Delayed-Time TRACE transaction data; provided, that subscribers to the BTDS Professional Real-Time Data Display Fee described above shall not be charged this additional fee. Subject to the execution of

appropriate agreements with NASD, certain summary market information of Delayed-Time TRACE transaction data may be published or distributed by newspapers, press associations, newsletters, or similar media sources without charge.]

(iii) through (iv) No change.

(B) Non-Professional Fees

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

(C) through (D) No change.

(l) through (u) No change.

* * * * *

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

1. Purpose

NASD is proposing to amend Rule 7010(k) to terminate the BTDS Professional Delayed-Time Data Display Fee pilot program and the BTDS Non-Professional Real-

Time Data Display fee. Both fees are for TRACE transaction information. In addition, NASD is proposing to change the implementation date of Stage Two of SR-NASD-2004-094. Implementation of Stage Two will make operative certain amendments to NASD Rule 6250 that provide for the delayed dissemination of information on designated transactions in TRACE-eligible securities.

1. TRACE Fees.

a. BTDS Professional Delayed-Time Data Display Fee Pilot Program.

NASD currently has in place a pilot program that charges for TRACE transaction information provided to professionals on a delayed basis. The charge for this pilot program is the BTDS Professional Delayed-Time Data Display Fee of \$15 per month and is imposed per terminal for each interrogation or display device receiving the delayed data. The pilot program commenced on February 1, 2004.⁴

NASD has recently begun a comprehensive review of TRACE fees. As part of this review, NASD has determined to terminate the BTDS Professional Delayed-Time Data Display Fee and service because the demand for the service was limited.

b. BTDS Non-Professional Real-Time Data Display Fee.

NASD currently charges a minimal fee of \$1.00 per month/per terminal for its BTDS Non-Professional Real-Time Data Display service, which allows non-professionals to view TRACE data on a real-time basis.⁵ NASD is proposing to eliminate

⁴ The pilot program was recently extended to July 31, 2005. *See* Securities Exchange Act Release No. 50627 (November 3, 2004); 69 FR 65005 (November 9, 2004) (File No. SR-NASD-2004-163, filed for immediate effectiveness on October 26, 2004).

⁵ A “non-professional” is defined in Rule 7010(k)(3)(C)(ii) and is limited by definition to natural persons. In addition, generally the term excludes any principal, partner, employee, or other person acting in any capacity in the financial services industry, and any person engaged in or intending to engage in any redistribution of TRACE data.

the \$1.00 BTDS Non-Professional Real-Time Data Display Fee for individual investors who are users of this real-time TRACE market data.

Wider distribution of TRACE data is a cornerstone of a broader effort to better educate individual investors about the corporate bond market. NASD proposes to eliminate the fee to remove any financial barriers to the broad-based distribution of TRACE data and encourage websites and other media outlets to widely redistribute real-time data to individual investors.

2. Implementation Date of Stage Two of SR-NASD-2004-094.

NASD proposes to amend the implementation date of Stage Two of SR-NASD-2004-094. Stage Two requires the implementation of certain amendments to NASD Rule 6250 that provide for the delayed dissemination of information on designated transactions in TRACE-eligible securities.⁶

NASD proposes to change the implementation date of Stage Two from February 1, 2005, to February 7, 2005. Specifically, NASD will implement on February 7, 2005: (1) Rule 6250(a)(1) and (2); (2) the portion of Rule 6250(b)(1)(C)(i) not effective as of October 1, 2004;⁷ and (3) Rule 6250(b)(2). Changing the implementation date will allow

⁶ SR-NASD-2004-094 was approved for implementation in two stages. The implementation date of Stage One was October 1, 2004. *See* Securities Exchange Act Release No. 50317 (September 3, 2004), 69 FR 55202 (September 13, 2004) (File No. SR-NASD-2004-094) (“SEC Approval Order”). *See also* NASD Notice to Members 04-65 (September 2004).

⁷ Rule 6250(b)(1)(C)(i) provides for the immediate dissemination of transactions in TRACE-eligible securities that are rated BB (or the equivalent rating of one or more nationally recognized statistical rating organizations) or lower and are executed other than during the New Issue Aftermarket-10, if the size of the transaction is \$1 million or less. (The term “New Issue Aftermarket-10” is defined in Rule 6250(a)(2).) During Stage One, NASD partially implemented Rule 6250(b)(1)(C)(i) by disseminating such transactions but only if larger transactions (*i.e.*, “\$1 million plus” transactions) in the same TRACE-eligible security were also subject to dissemination during Stage One. (“\$1 million plus” transactions in the same TRACE-eligible security were disseminated only if the TRACE-eligible security traded an average of one or more times per day, as provided in Rule 6250(b)(1)(C)(ii).) Transactions in TRACE-eligible securities described in Rule 6250(b)(1)(C)(i) that would otherwise be subject to immediate dissemination, but occurred in a security that is traded an average of less than one time per day and in which “\$1 million plus”

NASD to implement Stage Two on a Monday, rather than a Tuesday, which will reduce operational implementation issues.

The implementation date for Stage Two of SR-NASD-2004-094 will be February 7, 2005. NASD will announce all implementation dates of the proposed rule change in Notices to Members to be published no later than 30 days following Commission notice of filing of the rule change for immediate effectiveness. The implementation dates regarding proposed amendments to TRACE fees will be no more than 120 days after publication of the related Notice to Members.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act, which requires, among other things, that NASD rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that NASD operates or controls, and the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that NASD rules 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. The elimination of the BTDS Professional Delayed-Time Data Display Fee will equitably allocate fees among subscribers of TRACE data that desire timely data for commercial use or benefit and will not adversely affect the use and distribution of TRACE data, which provides information on TRACE-eligible securities, protecting investors in the market and furthering the public interest. In

transactions are subject to dissemination delays under Rule 6250(b)(2)(A) or Rule 6250(b)(2)(B), were not disseminated during Stage One, but will begin to be disseminated when Stage Two is implemented. *See* SEC Approval Order. *See also* NASD Notice to Members 04-65 (September 2004).

addition, the elimination of the BTDS Non-Professional Real-Time Data Display Fee will promote the widespread distribution of transaction information about corporate bonds to the public and provide the public with additional information about investments in debt securities, which is in furtherance of the protection of investors and the public interest. Finally, implementing the changes to Rule 6250 on Monday, February 7, 2005, will minimize any potential operational implementation issues in furtherance of 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 Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

- (i) significantly affect the protection of investors or the public interest;
- (ii) impose any significant burden on competition; and
- (iii) become operative for 30 days from the date on which it was filed, or such

shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change 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. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASD-2004-189 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

All submissions should refer to File No. SR-NASD-2004-189. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submissions, 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, 450 5th Street, N.W., Washington, D.C. 20549. Copies of such filings will also be available for inspection and copying at the principal office of NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to the File Number SR-NASD-2004-189 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Secretary

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17 CFR 200.30-3(a)(12).