

OMB APPROVAL

OMB Number: 3235-0045
Expires: June 30, 2007
Estimated average burden
hours per response.....38

Page 1 of 24

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. SR - 2005 - 083

Amendment No.

Proposed Rule Change by National Association of Securities Dealers

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial ☒	Amendment ☐	Withdrawal ☐	Section 19(b)(2) ☐	Section 19(b)(3)(A) ☒	Section 19(b)(3)(B) ☐
			Rule		
			☐ 19b-4(f)(1) ☐ 19b-4(f)(4)		
			☐ 19b-4(f)(2) ☐ 19b-4(f)(5)		
			☐ 19b-4(f)(3) ☒ 19b-4(f)(6)		

Exhibit 2 Sent As Paper Document



Exhibit 3 Sent As Paper Document

**Description**

Provide a brief description of the proposed rule change (limit 250 characters).

To Amend Rule 7010(k)(3) Relating to Definition of "Non-Professional" and Use of TRACE Transaction Data

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 Sharon Last Name Zackula
Title Associate General Counsel
E-mail sharon.zackula@nasd.com
Telephone (202) 728-8985 Fax (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 06/23/2005

By Patrice Gliniecki
(Name)

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.

PATRICE GLINIECKI,

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information

Add

Remove

View

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

Add

Remove

View

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

Add

Remove

View

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

Add

Remove

View

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

Add

Remove

View

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

Add

Remove

View

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

Add

Remove

View

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)(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 the definition of “Non-Professional” in Rule 7010(k)(3)(C)(i), relating to Transaction Reporting and Compliance Engine (“TRACE”) transaction data and fees, and add new Rule 7010(k)(3)(A)(iv) to clarify that a natural person who receives and uses TRACE transaction data for his or her personal, non-commercial use will not be charged a TRACE market data professional fee for such use. 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 (TRACE)

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
CTCI/Third Party - \$25/month/per firm	Cancel/Correct - \$1.50/trade	Vendor Real-Time Data Feed - \$1,500/month for Real- Time TRACE transaction data, except for qualifying Tax-Exempt Organizations
	“As of” Trade Late - \$3/trade	Vendor Real-Time Data Feed - \$400/month for Real-Time TRACE transaction data for qualifying Tax-Exempt Organizations
		BTDS Non-Professional Real-Time Data Display - No charge

(1) through (2) No change.

(3) Market Data Fees

Professionals and Non-Professionals may subscribe to receive Real-Time TRACE transaction 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.

(i) through (iii) No change.

(iv) A natural person otherwise subject to market data fees under Rule 7010(k)(3)(A) is not subject to such fees when he or

she accesses and uses TRACE transaction data solely for his or her personal, non-commercial use.

(B) No change.

(C) Definitions

(i) “Non-Professional” – As used in Rule 7010(k)(3) a “Non-Professional” is a natural person who uses TRACE transaction data solely for his or her personal, non-commercial use. A Non-Professional subscriber must agree to certain terms of use of the TRACE data, including that he or she receive and use the TRACE transaction data solely for his or her personal, non-commercial use. [Persons who are excluded from the definition of “Non-Professional” include a person that:] As used in Rule 7010(k)(3) a “Non-Professional” is not:

[a. is not a natural person;]

[b]a. [is]registered [or]nor qualified in any capacity with the Commission, the Commodity Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association, [or]nor an employee of the above and, with respect to any person identified in this subparagraph [b]a., uses TRACE transaction data for other than personal, non-commercial use;

[c]b. [is]engaged as an “investment adviser” as that term is defined in Section 202(a)(11) of the Investment Advisers Act of 1940 (whether or not registered or qualified under that Act), [or]nor an employee of the above and, with respect to any person identified in this subparagraph [c]b., uses TRACE transaction data for other than personal, non-commercial use;

[d]c. [is]employed by a bank, insurance company or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt, [or]nor any other employee of a bank, insurance company or such other organization referenced above and, with respect to any person identified in this subparagraph [d]c., uses TRACE transaction data for other than personal, non-commercial use; [or]nor

[e]d. [is]engaged in, [or]nor has the intention to engage in, any redistribution of all or any portion of the TRACE transaction data.

(ii) through (iii) No change.

(D) No change.

(l) through (v) No change.

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Board of Governors of NASD (“Board”) and authorized for filing with the SEC pursuant to a delegation of authority granted by the Board at its meeting on January 23, 2003, to the General Counsel of NASD Regulatory Policy and Oversight (or his officer designee)(“Delegation of Authority”) to file, without further specific Board authorization, administrative, technical, conforming, and non-substantive changes to NASD rules. The staff will advise the Board of any action taken pursuant to the Delegation of Authority. 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.

NASD has filed the proposed rule change for immediate effectiveness. The effective date and the implementation date will be the date of filing, June 23, 2005.

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

(a) Purpose

NASD seeks to amend Rule 7010(k)(3) to make minor clarifying changes to the definition “Non-Professional” in Rule 7010(k)(3)(C)(i) and to add new Rule 7010(k)(3)(A)(iv). The purpose of the proposed rule change is to restructure Rule 7010(k) to reflect more clearly a recently approved rule change to permit natural persons

actively engaged in providing financial services or employed in the financial services industry who do not fall within the definition of “Non-Professional” to access TRACE transaction data solely for personal, non-commercial purposes and not be liable for *professional* TRACE transaction data fees.

Background. NASD recently made minor clarifying amendments to the defined term, “Non-Professional,” in Rule 7010(k)(C)(3)(i) to make explicit in the rule that persons that are otherwise excluded from the definition, “Non-Professional,” such as registered persons employed by a broker-dealer or an investment adviser, should not be liable for professional fees for TRACE market data when such persons access the TRACE data solely for their personal, non-commercial use.¹ The amendments became effective June 1, 2005.

Proposal. The definition of “Non-Professional” is used in various NASD rules. NASD is concerned that defining the same term differently among NASD Rules will create confusion and inefficiencies both for the industry and NASD. For the purpose of maintaining uniformity among definitions, eliminating confusion among industry professionals who must apply the multiple provisions, and creating efficiencies for regulatory data searches and data retrieval, NASD is proposing to amend the defined

¹ See Securities and Exchange Act Release No. 51611 (April 26, 2005), 70 FR 22735 (May 2, 2005) (SEC approval order) (File No. SR-NASD-2005-026) and NASD Notice to Members 05-37 (May 2005).

For example, a registered representative of a broker-dealer is not liable for fees charged professionals in those instances where the registered representative accesses the TRACE transaction data solely for personal, non-commercial use, such as when the registered representative accesses TRACE data at home to obtain information about bonds held in his or her personal account.

term “Non-Professional” in Rule 7010(k)(3)(C)(i) (by reversing some of the minor clarifying amendments previously made) to conform it to other NASD provisions also defining “Non-Professional,” but to preserve the previously approved rule change providing natural persons who are affiliated with or employed by the securities or commodities industry or other parts of the financial services industry² access to TRACE transaction data without paying professional TRACE data fees when using the data solely for personal, non-commercial use.

To effect the restructuring rule change, NASD proposes specific minor clarifying changes to Rule 7010(k)(3)(C)(i) that are set forth in the proposed rule text. (The proposed amendments reverse some but not all of the minor clarifying changes recently incorporated in the Rule.³) NASD also proposes to amend Rule 7010(k)(3)(A) to add subparagraph (iv), providing:

A natural person otherwise subject to market data fees under Rule 7010(k)(3)(A) is not subject to such fees when he or she accesses TRACE transaction data solely for his or her personal,

² Such financial services industry affiliations are described fully in Rule 7010(k)(3)(C)(i) in current subparagraphs (a) through (d), to be renumbered as subparagraphs (a) through (c).

³ NASD is not revising recently adopted amendments to Rule 7010(k)(3)(C)(i)(d) (to be renumbered as Rule 7010(k)(3)(C)(i)(c)). Prior to amendment, Rule 7010(k)(3)(C)(i)(d) excluded from “Non-Professional” persons employed by a bank, insurance company or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt if such persons used TRACE transaction data for other than personal, noncommercial use. The revisions added that “other employees” of such organizations who use TRACE transaction data for other than personal, non-commercial use also are not “Non-Professionals.”

noncommercial use.

Together, the proposed amendments continue to make clear that a natural person who is registered in one of several capacities as a securities or commodities professional, (or performs similar functions but is not required to be registered due to an exemption), or is an employee of certain financial services businesses, may access TRACE transaction data free of professional TRACE data charges if the natural person uses such data solely for personal, non-commercial uses, but do so while also maintaining conformity among various NASD provisions in which the term “Non-Professional” is defined.

As noted in Item 2 of this filing, NASD has filed the proposed rule change for immediate effectiveness. The effective date and the implementation date will be the date of filing, June 23, 2005.

(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 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, and 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.

NASD believes that continuing to provide access to TRACE data to persons who are using TRACE market data solely for personal, non-commercial use is consistent with

the NASD's goals to promote corporate bond market transparency, and will not adversely affect the use and distribution of TRACE data for the protection of investors and in furtherance of 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, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest. 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. 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 filing,

as set forth in Rule 19b-4(f)(6)(iii), to clarify an existing policy regarding TRACE market data fees applicable to professionals and to reverse expeditiously recent rule amendments to the definition of “Non-Professional” in Rule 7010(k)(3) regarding the TRACE policy to avoid industry confusion. (The amendments became effective on June 1, 2005.) If such waiver is granted by the Commission, the proposed rule change is effective and operative upon filing pursuant to Section 19(b)(3)(A) of the Exchange Act and Rule 19b-4(f)(6) thereunder.

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-2005-083)
SELF-REGULATORY ORGANIZATIONS

Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to
Definition of “Non-Professional” and Use of TRACE Transaction Data

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. 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 the definition of “Non-Professional” in Rule 7010(k)(3)(C)(i), relating to Transaction Reporting and Compliance Engine (“TRACE”) transaction data and fees, and adopt new Rule 7010(k)(3)(A)(iv) to clarify that a natural

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4.

person who receives and uses TRACE transaction data for his or her personal, non-commercial use will not be charged a TRACE market data professional fee for such use. 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 (TRACE)

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
CTCI/Third Party - \$25/month/per firm	Cancel/Correct - \$1.50/trade	Vendor Real-Time Data Feed - \$1,500/month for Real-Time TRACE transaction data, except for qualifying Tax-Exempt Organizations
	“As of” Trade Late - \$3/trade	Vendor Real-Time Data Feed - \$400/month for Real-Time TRACE transaction data for qualifying Tax-Exempt Organizations
		BTDS Non-Professional Real-Time Data Display - No charge

(1) through (2) No change.

(3) Market Data Fees

Professionals and Non-Professionals may subscribe to receive Real-Time TRACE transaction 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.

(i) through (iii) No change.

(iv) A natural person otherwise subject to market data fees under Rule 7010(k)(3)(A) is not subject to such fees when he or she accesses and uses TRACE transaction data solely for his or her personal, non-commercial use.

(B) No change.

(C) Definitions

(i) “Non-Professional” – As used in Rule 7010(k)(3) a “Non-Professional” is a natural person who uses TRACE transaction data solely for his or her personal, non-commercial use. A Non-Professional subscriber must agree to certain terms of use of the TRACE data, including that he or she receive and use the TRACE transaction data solely for his or her personal, non-commercial use. [Persons who are excluded from the definition of “Non-Professional” include a person that:] As used in Rule 7010(k)(3) a “Non-Professional” is not:

[a. is not a natural person;]

[b]a. [is]registered [or]nor qualified in any capacity with the Commission, the Commodity Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association, [or]nor an employee of the above and, with respect to any person identified in

this subparagraph [b]a., uses TRACE transaction data for other than personal, non-commercial use;

[c]b. [is]engaged as an “investment adviser” as that term is defined in Section 202(a)(11) of the Investment Advisers Act of 1940 (whether or not registered or qualified under that Act), [or]nor an employee of the above and, with respect to any person identified in this subparagraph [c]b., uses TRACE transaction data for other than personal, non-commercial use;

[d]c. [is]employed by a bank, insurance company or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt, [or]nor any other employee of a bank, insurance company or such other organization referenced above and, with respect to any person identified in this subparagraph [d]c., uses TRACE transaction data for other than personal, non-commercial use; [or]nor

[e]d. [is]engaged in, [or]nor has the intention to engage in, any redistribution of all or any portion of the TRACE transaction data.

(ii) through (iii) No change.

(D) No change.

(l) through (v) 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 seeks to amend Rule 7010(k)(3) to make minor clarifying changes to the definition "Non-Professional" in Rule 7010(k)(3)(C)(i) and to add new Rule 7010(k)(3)(A)(iv). The purpose of the proposed rule change is to restructure Rule 7010(k) to reflect more clearly a recently approved rule change to permit natural persons actively engaged in providing financial services or employed in the financial services industry who do not fall within the definition of "Non-Professional" to access TRACE transaction data solely for personal, non-commercial purposes and not be liable for *professional* TRACE transaction data fees.

Background. NASD recently made minor clarifying amendments to the defined term, “Non-Professional,” in Rule 7010(k)(C)(3)(i) to make explicit in the rule that persons that are otherwise excluded from the definition, “Non-Professional,” such as registered persons employed by a broker-dealer or an investment adviser, should not be liable for professional fees for TRACE market data when such persons access the TRACE data solely for their personal, non-commercial use.⁴ The amendments became effective June 1, 2005.

Proposal. The definition of “Non-Professional” is used in various NASD rules. NASD is concerned that defining the same term differently among NASD Rules will create confusion and inefficiencies both for the industry and NASD. For the purpose of maintaining uniformity among definitions, eliminating confusion among industry professionals who must apply the multiple provisions, and creating efficiencies for regulatory data searches and data retrieval, NASD is proposing to amend the defined term “Non-Professional” in Rule 7010(k)(3)(C)(i) (by reversing some of the minor clarifying amendments previously made) to conform it to other NASD provisions also defining “Non-Professional,” but to preserve the previously approved rule change providing natural persons who are affiliated with or employed by the securities or commodities

⁴ See Securities and Exchange Act Release No. 51611 (April 26, 2005), 70 FR 22735 (May 2, 2005) (SEC approval order) (File No. SR-NASD-2005-026) and NASD Notice to Members 05-37 (May 2005).

For example, a registered representative of a broker-dealer is not liable for fees charged professionals in those instances where the registered representative accesses the TRACE transaction data solely for personal, non-commercial use, such as when the registered representative accesses TRACE data at home to obtain information about bonds held in his or her personal account.

industry or other parts of the financial services industry⁵ access to TRACE transaction data without paying professional TRACE data fees when using the data solely for personal, non-commercial use.

To effect the restructuring rule change, NASD proposes specific minor clarifying changes to Rule 7010(k)(3)(C)(i) that are set forth in the proposed rule text. (The proposed amendments reverse some but not all of the minor clarifying changes recently incorporated in the Rule.⁶) NASD also proposes to amend Rule 7010(k)(3)(A) to add subparagraph (iv), providing:

A natural person otherwise subject to market data fees under Rule 7010(k)(3)(A) is not subject to such fees when he or she accesses TRACE transaction data solely for his or her personal, noncommercial use.

Together, the proposed amendments continue to make clear that a natural person who is registered in one of several capacities as a securities or commodities professional, (or performs similar functions but is not required to be registered due to an exemption),

⁵ Such financial services industry affiliations are described fully in Rule 7010(k)(3)(C)(i) in current subparagraphs (a) through (d), to be renumbered as subparagraphs (a) through (c).

⁶ NASD is not revising recently adopted amendments to Rule 7010(k)(3)(C)(i)(d) (to be renumbered as Rule 7010(k)(3)(C)(i)(c)). Prior to amendment Rule 7010(k)(3)(C)(i)(d) excluded from “Non-Professional” persons employed by a bank, insurance company or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt if such persons used TRACE transaction data for other than personal, noncommercial use. The revisions added that “other employees” of such organizations who use TRACE transaction data for other than personal, non-commercial use also are not “Non-Professionals.”

or is an employee of certain financial services businesses, may access TRACE transaction data free of professional TRACE data charges if the natural person uses such data solely for personal, non-commercial uses, but the amendments do so while also maintaining conformity among various NASD provisions in which the term “Non-Professional” is defined.

NASD has filed the proposed rule change for immediate effectiveness. The effective date and the implementation date will be the date of filing, June 23, 2005.

2. 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 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, and 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.

NASD believes that continuing to provide access to TRACE data to persons who are using TRACE market data solely for personal, non-commercial use is consistent with the NASD’s goals to promote corporate bond market transparency, and will not adversely affect the use and distribution of TRACE data for the protection of investors and in furtherance of 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

Because the foregoing 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.

NASD has requested that the Commission waive the requirement that the rule change not become operative for 30 days after the date of filing, as set forth in Rule 19b-4(f)(6)(iii), to clarify an existing policy regarding TRACE market data fees applicable to professionals and to reverse expeditiously recent rule amendments to the definition of

“Non-Professional” in Rule 7010(k)(3) regarding the TRACE policy to avoid industry confusion. (The amendments became effective on June 1, 2005.) If such waiver is granted by the Commission, the proposed rule change is effective and operative upon filing pursuant to Section 19(b)(3)(A) of the Exchange Act and Rule 19b-4(f)(6).

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-2005-083 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary,
Securities and Exchange Commission, 450 Fifth Street, NW, Washington,
DC 20549-0609.

All submissions should refer to File Number SR-NASD-2005-083. 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 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, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will 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-2005-083 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.⁷

Secretary

⁷ 17 CFR 200.30-3(a)(12).