

November 20, 2003

Secretary
Securities and Exchange Commission
450 Fifth Street, NW
Washington, DC 20549

To Whom It May Concern:

I am writing concerning File No. SR-NASD-2003-157 – Permanent Approval of Fees for the Trade Reporting and Compliance Engine (TRACE). I would like to address five main issues:

1) Permanent Fee Structure - proposed rule change to amend NASD Rule 7010(k) relating to fees for the Trade Reporting and Compliance Engine (“TRACE”), and seeking permanent approval of the TRACE fee structure prior to the expiration of the pilot program for fees on January 31, 2004.

A) Unprecedented Delay and Fees defeat statutory basis for TRACE.

It is unprecedented in North American securities data markets to charge for delayed data, much less data delayed by four hours. The unprecedented proposed fees for delayed data completely contradict and defeat the statutory basis for TRACE.

The statutory basis for TRACE found in Section 15A(b)(6) of the '34 Act and as stated in NASD Rule 6200, File No. SR-NASD-2002-46, requires

“that the Association’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.”

The NASD goes on to further state its intention to implement the TRACE system in a manner that will

“protect investors and the public interest by, among other things, increasing transparency in the fixed income markets.”

Not only does the BTDS Vendor Agreement currently require a 4-hour delay for disseminating delayed TRACE Information, but now the NASD proposes to charge for this data. Any charge for delayed data, however large or small, is simply yet another impediment to the wide-spread dissemination of information so vitally important to investors. The current delay standard for all equity and fixed income data in North America is 15 to 20 minutes as is demonstrated by the following major equity and fixed income data sources: NASDAQ, NYSE and AMEX.

B) Fees unnecessary financially and usurious.

The fees generated by TRACE market participants should more than cover the maintenance and operational expenses of TRACE. Charging additional fees without considering the revenues generated from the complete market rollout of TRACE is simply usurious. The NASD seems to be charging additional fees simply because it can. We believe that the TRACE fee structure should be reviewed at least once per year for fairness, and that a public comment period should be allowed each year.

2) The NASD's Mandated use of CUSIP in TRACE results in monopolistic and unfair competition in favor of Standard & Poor's

Advantage Data is deeply concerned with the NASD's insistence in using CUSIP and the requirement to sign a "Daily License Agreement" with Standard & Poor's for CUSIP information in order to receive BTDS (TRACE) Information. While the BTDS Vendor Agreement suggests under Section 7 that the receipt of CUSIP could be optional ("If NASD disseminates a CUSIP Database to Vendor, the following language shall be applicable..."), the NASD has up to now not made it possible for any vendor to strip the proprietary and extremely expensive CUSIP identifi from BTDS (TRACE). Regarding TRACE, Standard & Poor's has been given the ability to impose any fees as it sees fit for a Daily CUSIP License Agreement without guidelines or any test of fairness from the NASD. How is such a mandatory policy in any manner consistent with increasing the transparency of fixed income data and "promoting just and equitable principles of trade" when TRACE Information must seemingly be accompanied with CUSIP, a proprietary and arbitrary numbering system under the exclusive control of Standard & Poor's? Vendors and investors alike should be able to access and receive TRACE information without having to receive CUSIP and entering into economically burdensome and unregulated contracts with Standard & Poor's. The NASD has demonstrated it's ability to quickly offer different services related to TRACE (elimination of Daily Fax Service, creation of a tiered Web Browser access, etc.). Why could the NASD not easily create two FTP services: 1) TRACE data WITH CUSIP and 2) TRACE data WITHOUT CUSIP which would allow market participants to access TRACE data without paying onerous and unnecessary and unregulated fees to Standard & Poor's for CUSIP, as well as unnecessary dedicated data line costs to MCI of over \$2000 per month?

3) Ongoing Review of NASDAQ's management of TRACE

What kind of ongoing review process has been put in place of NASD/NASDAQ's handling of TRACE? What kind of contractual relationships exist between the NASD/NASDAQ and Standard & Poor's? Has Standard & Poor's been given preferential treatment to the NASD/NASDAQ regarding their use of CUSIP in TRACE in order to ensure unnecessarily tight integration of CUSIP in TRACE? What kind of ongoing review (with public comment period) of NASDAQ's handling of TRACE exists? How is NASDAQ remunerated? Is this remuneration based on revenues collected (i.e. not a factor which is in the public interest) and what kind of ongoing review process (with public comment period) has been put in place regarding NASDAQ's remuneration and their handling of TRACE?

4) 4-hour delay for disseminating delayed TRACE Information

The BTDS Vendor Agreement currently requires a 4-hour delay for disseminating delayed TRACE Information. The current delay standard for all equity and fixed income data in North America is 15 to 20 minutes as is demonstrated by the following major equity and fixed income data sources: NASDAQ, NYSE and AMEX. As a result, market participants have come to expect that delayed data will be delayed by no more than 15 minutes. In our discussion with NASD representatives, no justification was provided for the proposed 4-hour delay. This delay clearly does not come from any technical hurdles, as TRACE Information is available in real-time for a substantial fee. Even in real-time, TRACE Information is already delayed given each reporting participant's ability to report trade data within one hour and fifteen minutes of trade execution. So in fact, delayed TRACE Information may only be disseminated nearly 5.25 hours after the transaction has occurred! Given such detrimental delays, the old rules for FIPS and public exchanges overall provide for more rapid price transparency than TRACE. Advantage Data hopes that the SEC will recommend that the NASD implement a delay policy for TRACE Information that is identical with the industry standard for equity and fixed income data of no more than 15 minutes. A delay of no more than 15 minutes is what investors have come to expect of delayed equity and fixed income data. Any greater delay is unnecessary and could be detrimental to the public interest.

5) Ownership of derived data by NASD

In the TRACE Vendor Agreement, Section 2, the NASD claims ownership of the TRACE Information and "any derivation thereof." The NASD proposes to own information submitted to it and originating from TRACE participants and then extends such right to calculations and analysis derived at vendors' own expense and by vendors' own technology. The NASD's overreaching desire to own TRACE Information serves only to inhibit the dissemination and understanding of the Information (a contradiction of its stated policy), as opposed to fairly

regulating and assuring the accuracy of its distribution. Instead, we believe that the NASD should encourage the use of derived data to further expand transparency and clarity in the fixed income markets by not usurping ownership of public information that is enhanced through the distinguishing and value-added role of TRACE vendors.

It is Advantage Data's sincere hope that the Securities and Exchange Commission will address these concerns with the NASD as soon as possible. The NASD needs to make its rules and contracts consistent with Section 15A(b)(6) of the '34 Act without delay and work in cooperation with vendors to increase transparency in the fixed income markets. If you have any questions, please do not hesitate to contact me at any time at (617) 261- 9700. Thank you.

Respectfully,

Rene L. Robert
President and CEO
Advantage Data, Inc.