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December 14, 2005

Katherine A. England  
Assistant Director  
Division of Market Regulation  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549-1001

**Re: File No. SR-NASD-2005-120**, Proposed Amendments to TRACE Rule 6250  
to Disseminate Information on Transactions in TRACE-Eligible Securities  
Immediately Upon Receipt -- Response to Comments

Dear Ms. England:

In SR-NASD-2005-120, NASD proposes to amend Rule 6250 of the Trade Reporting and Compliance Engine (“TRACE”) to disseminate immediately upon receipt transaction information on TRACE-eligible securities transactions (except transactions effected pursuant to Rule 144A of the Securities Act of 1933 (“Securities Act”) (“Rule 144A transactions”). NASD is responding to the comment letter submitted to the Securities and Exchange Commission (“Commission” or “SEC”) in response to the publication of the rule filing.<sup>1</sup>

The commenter raises two concerns. Only one, however, directly relates to the proposed rule change. The commenter’s primary concern with the proposed rule change states that the implementation of immediate dissemination for the remaining small percentage of high yield securities transactions not currently subject to immediate dissemination *will further harm* liquidity in the high yield segment of the corporate bond market. The commenter further argues that if NASD determines that dissemination is having an adverse impact on the liquidity of such securities, NASD should plan to seek adjustments to the dissemination provisions on an expedited basis. In another comment

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<sup>1</sup> Securities Exchange Act Release No. 52700 (October 28, 2005), 70 Fed. Reg. 67523 (November 7, 2005). The public comment period expired on November 28, 2005. The SEC received one comment letter. *See* Letter from Micah S. Green, President and CEO, The Bond Market Association (“TBMA”), to Jonathan G. Katz, Secretary, SEC, dated November 29, 2005.

unrelated to the proposed rule change, the commenter formally requests that NASD make available public and non-public “historical TRACE information.”

Liquidity. The commenter argues that the SEC’s approval of the proposed rule change *will further harm* liquidity in the high yield segment of the corporate bond market. NASD notes that opposition to transparency, except for the most liquid, highly rated corporate bonds, has been the basis of this commenter’s opposition to the dissemination of corporate bond transaction information during each stage of the TRACE initiative to increase transaction dissemination, and thereby transparency, in the corporate debt market. Moreover, the commenter’s statement opposing the last phase of corporate bond transparency on the basis that the commenter (or another party) is able to establish affirmatively that *harm to liquidity* has already occurred is unsubstantiated. The commenter provides no quantitative or observable evidence that harm to liquidity has already occurred, nor any evidence that harm to liquidity will occur in the future as a result of the approval of the proposed rule change. To the contrary, the dissemination of corporate bond transactions has occurred at a very measured pace, with NASD, the Commission, and industry assessing at each phase the impact of dissemination on liquidity. At each phase, NASD and the Bond Transaction Reporting Committee (“BTRC”),<sup>2</sup> an industry committee where 50 percent of the members were recommended by the commenter, found no evidence that dissemination had harmed liquidity,<sup>3</sup> and in the absence of such a showing of harm, recommended that the next phase of dissemination occur. Most recently, the BTRC voted unanimously to support the proposed rule change now under consideration by the Commission. Moreover, the Commission approved each of these measured steps toward full transparency.

The commenter also states that NASD should conduct a thorough, ongoing review of relevant TRACE and market data and should plan to seek adjustments to the dissemination provisions on an expedited basis if NASD determines that dissemination is having an adverse impact on the liquidity of one or more groups of TRACE-eligible securities. As noted in the proposal, NASD intends to continue to review the trading and liquidity in TRACE-eligible securities after the proposed rule change is implemented. In addition, NASD has authority to effect necessary amendments to relevant NASD rules to protect the integrity of the corporate bond market. Finally, in making such assessments, the input of industry experts, including the views of the diverse membership of the BTRC, has been essential to the development of the proposed dissemination provisions,

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<sup>2</sup> The BTRC is appointed by the NASD Board of Governors and has ten members. Five of the members were recommended by the staff of NASD and the other five were recommended by TBMA.

<sup>3</sup> Extensive examination of TRACE data and a review of four studies performed by a team of econometricians have failed to reveal any conclusive evidence that TRACE transparency has adversely affected liquidity, including liquidity in lower-rated TRACE-eligible securities.

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and NASD staff will continue to involve knowledgeable industry participants to inform and aid it in assessing the impact of dissemination on trading and liquidity in the market for TRACE-eligible securities.

TRACE Information. The commenter states that NASD should provide TBMA and others “historical TRACE information.” NASD does not believe that a consideration of a request to provide historic data held by a regulator and not previously made available publicly is relevant to the consideration of the proposed rule change. The comment process allows a commenter to provide arguments, views and data concerning proposed rule filings; it is not a forum to make demands of a self-regulatory organization to release non-publicly disseminated data on the basis that such information might be helpful to the commenter’s consideration of such proposed rule. Consequently, NASD does not believe that the SEC should delay consideration of the proposed rule change in connection with the commenter’s request.

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If you have any questions, please contact me at (202) 728-8985 or [sharon.zackula@nasd.com](mailto:sharon.zackula@nasd.com) or Elliot Levine, Chief Counsel and Senior Advisor, Markets, Services, and Information, at (202) 728-8405; e-mail [elliott.levine@nasd.com](mailto:elliott.levine@nasd.com). The fax number of the Office of General Counsel is (202) 728-8264.

Very truly yours,

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