



Kirkpatrick Pettis
A Mutual of Omaha Company

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SECURITIES AND EXCHANGE COMMISSION

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DIVISION OF MARKET REGULATION

February 17, 2004

Ms. Katherine A. England
Assistant Director
Division of Market Regulation
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, DC 20549-1001

Re: **File No. SR-NASD-2003-201 – Proposed Amendments to Schedule A of the NASD By-Laws to Adjust the Trading Activity Fee Rate and Add TRACE-Eligible and Municipal Securities as Covered Securities**

Dear Ms. England:

Kirkpatrick, Pettis, Smith, Polian Inc. recently was advised of the NASD's proposed change to Schedule A of its Bylaws regarding Trading Activity Fees ("TAF"). We respectfully oppose these proposed amendments.

It is our position that, if these new fees are assessed against TRACE-eligible corporate debt securities and municipal securities subject to the Municipal Securities Rulemaking Board ("MSRB") reporting requirements, the fees will in effect be "double taxation". We find it incongruous and inequitable that the NASD is seeking to impose additional fees on fixed income securities transactions while at the same time the NASD is seeking to reduce the trading fees on equity securities. The MSRB already assesses transaction and other fees on municipal securities and it is our understanding that a portion of such fees are remitted to the NASD to help defray the NASD's costs in enforcing MSRB rules. We think that it is inappropriate, and will be extremely harmful to the fixed income securities business generally, to assess additional transaction fees when spreads continue to lessen based on increased market transparency and otherwise. We believe that additional transaction fees especially will affect adversely secondary fixed income securities trading.

We are concerned especially about the manner in which these proposed amendments were disclosed to the NASD membership and the short time period allowed for interested persons to provide comments to the SEC. We oppose these proposed amendments and suggest that the NASD should look for other revenue sources and expense reduction opportunities (in the NASD's compensation structure and otherwise).

Sincerely,

Samuel C. Doyle
Executive Vice President