



August 17, 2004

Mr. Jonathan G. Katz  
Secretary  
Securities and Exchange Commission  
450 Fifth Street, NW  
Washington, DC 20549-0609

Subject: Proposed NASD TRACE Rules  
File No. SR-NASD-2004-094

Dear Mr. Katz,

Pink Sheets LLC ("Pink Sheets"), commenting on amendments proposed by the National Association of Securities Dealers, Inc. (the "NASD") to TRACE Rule 6250 and Related TRACE Rules, urges the Commission to require real-time trade reporting and immediate dissemination of trade reports for all TRACE-eligible securities, whether or not investment grade. On a related note, we also believe that NASD Rule 2320(g) should be amended to require NASD member firms to obtain three quotes for all TRACE-eligible debt securities. Pink Sheets is the leading provider of pricing and financial information for the over-the-counter (OTC) securities markets and, among other things, operates an Internet-based, electronic quotation and trade negotiation service for OTC equities and bonds for market makers and other broker-dealers registered under the Exchange Act.

### **Real-Time Trade Reporting**

We strongly support the NASD's efforts to require improved trade reporting through TRACE for transactions in debt securities. Real-time trade reporting provides a strong deterrent to improper trade practices, including trade interpositioning, and provides the proper incentives to encourage dealers to honor their best execution obligations to customers under NASD Rule 2320.<sup>1</sup>

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<sup>1</sup> Public bid and offer quotations can be tested for accuracy by the marketplace and therefore require less proactive regulatory surveillance to maintain market integrity. In contrast, inaccurate trade reports are not readily identified by the market and are susceptible to use for manipulative purposes. Trade reporting and dissemination should



For the same reasons, we oppose the current proposal to delay the dissemination of trade reports in “Non-Investment Grade” securities for four days. There is no reason to suppose that dishonest trade interpositioning and other trading tactics inconsistent with best execution obligations are any less prevalent in the market for Non-Investment Grade securities than in investment grade securities. If anything, the contrary is true. Transparency brought about by real-time trade reporting and dissemination is vital to protect investors in Non-Investment Grade securities.

In support of delayed dissemination of trade reports, the NASD recites concerns expressed by some market participants that real-time dissemination might result in a less liquid market in Non-Investment Grade securities. The NASD admits that it has no data to support such claims. Moreover, the reasons provided by the NASD for imposing delayed dissemination of trade reports for Non-Investment Grade securities run contrary to experience.

Roughly a decade ago, another group of market participants contended that real time trade reporting and immediate dissemination of trade reports in OTC Equity Securities traded through the facilities of the OTC Bulletin Board or the Pink Sheets would result in less liquidity in those instruments. These arguments had some currency in certain quarters and contributed to a gradual implementation of real-time trade reporting and dissemination. However, those arguments were wrong then and are wrong now. History has proven the opposite is true. The institution of real-time trade reporting and dissemination enables investors to monitor the execution of their trades, and this has led them to be more willing to invest in OTC Equity Securities. The result is more liquidity, not less.

In this case, delayed dissemination of trade reports in Non-Investment Grade securities is particularly obnoxious because additional resources must be allocated to design systems to facilitate the delay. This profound waste of resources will therefore delay for another nine months any dissemination of trade reports in Non-Investment Grade securities. Having waited this long for trade reports, the investing public should not be further victimized by this senseless delay. These valuable systems resources should be reallocated to more productive tasks.

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therefore be conducted through the facilities of a self-regulatory organization. Strong rules requiring all market participants to report all trades, careful regulatory monitoring and vigorous enforcement are necessary to achieve a full and fair representation of market activity.



Transparent markets allow investors to protect themselves. A lack of transparency in trade reporting helps no one but the unscrupulous. The current proposal substantially reduces the investing public's ability to monitor the quality of trade executions in Non-Investment Grade debt securities. Unable to protect themselves from bad trade executions, the public fears the worst and avoids otherwise good investment opportunities. Because the public cannot readily distinguish honest and crooked dealers, the perfidious acts of a few cause honest dealers to be tarred with the same brush. The market suffers because investors are unwilling to play in a game they fear is rigged against them.

Our substantial experience in the quotation of illiquid securities through the Pink Sheets electronic quotation and trade negotiation services for OTC securities, indicates that the transparency achieved through real-time trade reporting and dissemination will encourage efficient valuations, increase investment in these instruments, improve liquidity and extend the benefits of well-monitored best execution practices into this market. For these reasons, we urge the Commission to institute real-time dissemination of trade reports for all TRACE-eligible securities and move towards requiring 90-second trade reporting requirements.

### **Expansion of Three Quote Rule**

The Three Quote Rule contained in NASD Rule 2320(g) was adopted to achieve many of the same regulatory objectives for over-the-counter equities that TRACE is designed to accomplish with over-the-counter debt securities. The Three Quote Rule was originally adopted in connection with the NASD's efforts to develop a nationwide automated market surveillance program for equities traded through the facilities of Pink Sheets. See Securities Exchange Act Release No. 34-38936 (August 14, 1997). Similarly, the TRACE Rules are intended primarily to establish a surveillance program for over-the-counter debt securities.

The Three Quote Rule, subject to certain exceptions, requires an NASD member executing a customer order in a non-Nasdaq equity security to obtain quotations from three dealers to determine the best inter-dealer market. The Three Quote Rule thereby creates a standard for NASD members to fulfill their best execution responsibilities to customers in non-Nasdaq equity securities, especially transactions involving relatively illiquid securities with non-transparent prices.

The same need to create a standard for best execution in over-the-counter equities that inspired the Three Quote Rule exists today with debt securities traded over-the-counter. This need is especially critical with respect to non-investment grade debt securities because these instruments usually are relatively illiquid with non-transparent prices. We therefore urge the Commission, in connection with the adoption of the TRACE



Rules, to expand the Three Quote Rule to include all TRACE eligible debt securities traded over-the-counter.

Please call me if you have any questions.

Very truly yours,

/s/ R. CROMWELL COULSON

R. Cromwell Coulson  
Chief Executive Officer