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November 29, 2005

Mr. Jonathan G. Katz  
Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-9303

**Re: File Number SR-NASD-2005-120  
Proposed Rule Change Relating to Dissemination of  
Information on TRACE-Eligible Securities Transactions**

Dear Mr. Katz:

The Bond Market Association (“Association”)<sup>1</sup> appreciates the opportunity to comment on the proposal (the “Proposal”) by the National Association of Securities Dealers, Inc. (“NASD”) to amend NASD Rule 6250 of the Trade Reporting and Compliance Engine (“TRACE”) rules to disseminate immediately upon receipt transaction information on TRACE- eligible securities (except transactions effected pursuant to Rule 144A of the Securities Act of 1933).

We applaud the continued efforts of the Securities and Exchange Commission (“SEC”) and the NASD to increase transparency, and thereby market integrity and investor protection, in the corporate bond markets. The Association is committed to making the bond markets more transparent, particularly for the retail investor, and as part of this commitment disseminates both TRACE corporate bond and MSRB municipal bond price information free of charge on its investor education website, [www.investinginbonds.com](http://www.investinginbonds.com). The Association has also been an active participant, through the five members it nominates to the NASD’s Bond Transaction Reporting Committee (“BTRC”), in advising the NASD on the implementation of TRACE dissemination.

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<sup>1</sup> The Association represents securities firms and banks that underwrite, trade and sell debt securities, both domestically and internationally. The Association’s member firms collectively represent in excess of 95% of the initial distribution and secondary market trading of municipal bonds, corporate bonds, mortgage and other asset-backed securities and other fixed income securities. More information about the Association is available on its website [www.bondmarkets.com](http://www.bondmarkets.com).

Both through our involvement in the BTRC and our direct dialogue with the SEC and NASD on TRACE, we have long been aware of the strong desire of regulators to move to both full dissemination for all corporate debt transactions (which was achieved last February), as well as the SEC's mandate, issued over a year ago, to eliminate the remaining TRACE dissemination delays covering the least liquid segment of the market. We therefore fully anticipated and are frankly resigned to the fact that the Proposal will be approved by the SEC. In that context, however, we feel it is important to state for the record the following significant concerns of the Association regarding the Proposal:

- We continue to believe that implementing immediate dissemination for transactions in illiquid, high yield corporate securities will further harm liquidity for this segment of the market. Anecdotal evidence in the market today indicates that TRACE Phase III dissemination has already negatively impacted liquidity for illiquid securities.
- We believe the academic studies conducted by the NASD on behalf of the BTRC do not include key measures of impact on liquidity to date, and are disappointed that the NASD has not allowed the industry access to the historical TRACE data to conduct independent studies of the impact of TRACE on liquidity. We urge the NASD to make the historical TRACE information publicly available for study.

#### *Elimination of Dissemination Delays*

In the U.S., the Association has long supported immediate post-trade price transparency for many corporate fixed income securities, particularly the most liquid, investment grade-rated issues. We applaud the continued efforts of the SEC and the NASD to increase post-trade transparency, and thereby market integrity and investor protection, in the U.S. corporate bond markets. However, we continue to have significant concerns regarding harm to liquidity from immediate dissemination of transaction information for infrequently traded high yield and distressed securities. This segment of the market is very small, is the most dependent on dealer capital to create liquidity, and includes the 1% of transactions in TRACE-eligible securities that currently has delayed dissemination under Phase III of TRACE. We believe that real-time transaction dissemination in this segment of the market will further erode dealer willingness to commit capital and to provide liquidity for these types of securities and, most importantly, provide little to no benefit to retail investors, who tend (appropriately) not to participate in this segment of the market, or to institutions, who generally desire and are willing to pay for dealer capital in transactions in these less liquid securities.

While the academic studies commissioned by the NASD on behalf of the BTRC have thus far not shown any conclusive, statistically significant evidence of a negative impact to liquidity in the high yield corporate bond markets, anecdotal evidence to the contrary has been reported to the Association by many U.S. dealers, EU fund managers

trading U.S. high yield securities, and reported in the press.<sup>2</sup> The experience of many market participants has been that TRACE has already hampered the ability of dealers and investors to trade large blocks of less liquid, lower-rated securities, and has led to increased market volatility for these securities, with the market quickly re-pricing to reflect the last reported TRACE price. In a real-time dissemination environment, dealers will not be able to be compensated for risking capital to position large blocks of illiquid or volatile securities. Faced with limited upside and unlimited downside exposure, they will cease to provide liquidity to investors and will instead simply work orders. Investors, who will receive a lower price for their securities, are ultimately harmed. Other related effects, of which we have also already heard anecdotal evidence, include a shift of sell-side personnel away from the high-yield market into other asset classes.

In evaluating the Proposal, our BTRC members raised these concerns and asked that a resolution be included in the Proposal reflecting the strong desire of the BTRC that the SEC and NASD continue to monitor the part of the fixed income market made up of transactions in TRACE-eligible securities and, should they identify evidence that immediate dissemination has a negative impact on the liquidity of the fixed income markets, reconsider immediate dissemination of TRACE information. We fully support this recommendation of the BTRC, and urge the NASD staff to continue to monitor the effects of TRACE on the market and act quickly to respond and recommend appropriate action should evidence of damage to liquidity in the high yield and distressed markets become evident to NASD. Such monitoring is particularly important at this time because virtually all of the review conducted by the NASD to date has been in a low interest rate environment where there has been an abundant supply of affordable capital. As interest rates rise and the supply of credit, particularly to non-investment grade borrowers, declines and becomes more costly, these liquidity issues will take on new meaning for issuers, investors and other market participants.

### ***Request for Historical TRACE Data***

The NASD has thus far not made historical TRACE data available to the industry and is therefore the only entity that is able to conduct studies on the impact of TRACE on liquidity. We believe that the econometric and academic studies conducted by the NASD on behalf of the BTRC do not present some of the most meaningful measures of effects on liquidity. For example, the studies conducted since the implementation of Phase III, in which transactions in securities rated BBB and below were made public for the first time, have not included any direct measures of trading volume. It is imperative that market participants have access to historical TRACE data to enable them to conduct further studies across a broad range of relevant liquidity measures.

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<sup>2</sup> See *High-Yield Players Hit By Downside Of TRACE*, Bondweek, June 7, 2005; *TRACE Troubles Traders*, International Financing Review, August 13, 2005; *Unintended Consequences*, Investment Dealers' Digest (IDD) Magazine, August 15, 2005; *Bond Information May Harm*, Financial Times, November 17, 2005.

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Further to our recent conversations with NASD on this topic and with the full support of our members, we hereby request that NASD make the historical TRACE transaction data publicly available so that all interested parties—industry groups, academics, econometricians, and others—can study and analyze the data and conduct independent studies of any effects on liquidity, trading volume, or other measures.

Unless and until this data is made publicly available, industry participants will continue to be unable to conduct independent analyses and research on the effects of transparency. In the interests of transparency and full disclosure, this data should be made publicly available.

We therefore respectfully request that NASD make all of the historical TRACE data publicly available, including non-disseminated trades, with actual trade size, from July 2002 through June 2005. We also request that if the NASD declines to release the historical data, that it state its reasons for doing so in a written response to the Association. Release of such data can be done without releasing or customer or other confidential information.

Again, while we continue to have concerns about liquidity, we are resigned to the fact that you will approve this request by the NASD. We will continue to provide all of the information disseminated on [www.investinginbonds.com](http://www.investinginbonds.com) as it is the most efficient and comprehensive way to get this information into the hands of the retail investor. But we continue to offer our friendly, but serious warning that liquidity should not be presumed in financial markets, particularly in those markets where credit is below investment grade – the precise markets affected by the NASD’s pending proposal.

Please do not hesitate to contact me at 646-637-9220 with any questions or for additional information on any of the matters discussed herein.

Sincerely,

*/s/ Micah S. Green*

Micah S. Green  
President and CEO

cc: ***U.S. Securities and Exchange Commission***

The Hon. Christopher Cox, Chairman  
The Hon. Paul S. Atkins, Commissioner  
The Hon. Roel C. Campos, Commissioner  
The Hon. Cynthia A. Glassman, Commissioner  
The Hon. Annette L. Nazereth, Commissioner  
Giovanni P. Prezioso, General Counsel  
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***NASD Corporate Debt Market Panel***

John J. Brennan, Chairman

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