

one calendar month during which NASD shall waive the \$60 per terminal, per month charge.

(ii) BTDS Internal Usage
Authorization Fee of \$500 per month, per [organization] application/service charge for internal dissemination of real-time TRACE transaction data used in one or more of the following ways: internal operational and processing systems, internal monitoring and surveillance systems, internal price validation, internal portfolio valuation services, internal analytical programs leading to purchase/sale or other trading decisions, and other related activities.⁸

(iii) BTDS External Usage
Authorization Fee of \$1,000 per month, per [organization] application/service charge for dissemination of real-time TRACE transaction data used in one or more of the following ways: repackaging of market data for delivery and dissemination outside the organization, such as indices or other derivative products.⁹

(B) Non-Professional Fees

No change.

(C) Non-Professional Defined

No change.

(4) Daily List Fax Service

Each subscriber for NASD's Daily List Fax Service shall be charged \$15 per month, per fax number/addressee. As of January 1, 2003, Daily List Fax service and the corresponding fee shall be eliminated.]

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. NASD has prepared summaries, set forth in sections A, B,

and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 1, 2002, the Trade Reporting and Compliance Engine (TRACE) became effective. On June 28, 2002, the Commission approved proposed NASD fees relating to the operation of the TRACE system (rule 7010(k)) on a pilot basis for a six-month period expiring on December 28, 2002.¹⁰ As part of that rule filing (Amendment No. 3 to SR-NASD-2002-63), NASD committed to review and reassess the proposed TRACE fees as soon as practicable and within six months after the effective date of TRACE, based on such factors as actual volume, usage, costs, and revenues.

On November 15, 2002, NASD submitted a proposed rule change to the SEC to reduce certain TRACE fees for the fourth quarter of 2002 (*i.e.*, the Web Browser Access Fee, the Cancel or Correct Fee, and the "As of" Trade Late Fee). These fees were reduced effective as of October 1, 2002.¹¹

On December 12, 2002, NASD submitted a proposed rule change to the SEC to extend the pilot program for TRACE fees to February 28, 2003, and to modify the pilot effective January 1, 2003.¹² As of January 1, 2003, NASD divided the Web Browser Access Fee into two service levels "Level I with no access to real-time TRACE data, and Level II with access to real-time TRACE data. A participant who registers for Level I Trade Report Only Web Browser Access will be able to report TRACE data to NASD over the Internet. Level I Trade Report Only Web Browser Access will allow a participant to report TRACE data to NASD, but will not allow a participant to receive real-time TRACE transaction data. The fee for Level I Trade Report Only Web Browser Access is \$25 per month, per user ID. A

participant who registers for Level II Full Service Web Browser Access will be able to report TRACE data to NASD over the Internet and to use a query feature to receive real-time TRACE transaction data. The fee for Level II Full Service Web Browser Access is \$85 per month, per user ID. A participant may register for a combination of Level I and Level II service based on their usage and needs.

As of January 1, 2003, NASD also reduced trade reporting fees by 5% for 2003 and reduced the Cancel or Correct Fee from \$3.00 to \$1.50 effective January 1, 2003. The "As of" Trade Late Fee will remain at \$3.00 per trade.

To provide additional transparency in the debt market, NASD submitted a rule filing with the Commission to increase the categories of TRACE eligible-securities for which transaction data should be required to be disseminated by NASD ("Phase II"). On December 6, 2002, NASD submitted a rule filing to amend, among other things, NASD rule 6250 to provide for the dissemination of transaction information on additional Investment Grade TRACE-eligible securities under the NASD rule 6200 Series (also known as the "TRACE Rules"). On January 31, 2003, the SEC approved these amendments to NASD rule 6250 of the TRACE rules.¹³ Approximately 520 bonds have been subject to dissemination since TRACE began on July 1, 2002.¹⁴ NASD believes Phase II will substantially increase the amount of information available to the public and market participants about debt markets. NASD believes that under Phase II, over 4,000 TRACE eligible-securities will be subject to dissemination under NASD rule 6250.

Temporary Fee Holiday of BTDS Professional Display Fee

To improve transparency and provide subscribers a "trial month" to explore the services provided by the Bond Trade Dissemination Service ("BTDS") terminals, NASD is proposing to provide a temporary fee holiday from the BTDS Professional Display Fee to subscribers for a period of one calendar month to be announced following the start of Phase II TRACE data dissemination. During this one-month period, NASD shall not charge

transaction information on more than 4,000 qualifying Investment Grade corporate debt securities. See Securities Exchange Act Release No. 47302 (January 31, 2003), 68 FR 6233 (February 6, 2003) (File No. SR-NASD-2002-174).

⁸ Under this service, real-time TRACE transaction data may not be used in any interrogation display devices, any systems that permit end users to determine individual transaction pricing in real-time, or disseminated to any external source.

⁹ Under this service, real-time TRACE transaction data may not be used in any interrogation display devices or any systems that permit end users to determine individual transaction pricing in real-time.

¹⁰ The Commission approved rule 7010(k) relating to TRACE fees on June 28, 2002, on a six-month pilot basis. See Securities Exchange Act Release No. 46145 (June 28, 2002), 67 FR 44911 (July 5, 2002) (File No. SR-NASD-2002-63).

¹¹ On November 22, 2002, the Commission issued a notice of the filing and immediate effectiveness of this proposed rule change. See Securities Exchange Act Release No. 46893 (November 22, 2002), 67 FR 72008 (December 3, 2002) (SR-NASD-2002-167).

¹² On December 19, 2002, the Commission issued a notice of the filing and immediate effectiveness of this proposed rule change. See Securities Exchange Act Release No. 47056 (December 19, 2002), 67 FR 79205 (December 27, 2002) (File No. SR-NASD-2002-176).

¹³ See Securities Exchange Act Release No. 47302 (January 31, 2003), 68 FR 6233 (February 6, 2003) (File No. SR-NASD-2002-174).

¹⁴ Minor fluctuations in the number of bonds disseminated occur because newly issued bonds are added if they meet the dissemination criteria, and outstanding bonds on which information is disseminated may no longer be disseminated, if, at some point, they fail to meet the dissemination criteria, or mature, or are retired.