

NSCC develop a TRACE reporting option so that members could utilize the same NSCC functionality for reporting transactions in TRACE-eligible securities. Because of NSCC operational issues, it became clear that firms would be precluded from reporting through NSCC unless NSCC improved its "batch processing" to allow for more submissions per day, and NASD adopted a slightly longer reporting period. As a result the SEC approved the NASD's proposal to extend the reporting period to 75 minutes for the initial period of reporting under TRACE. The basis for extending the period to 75 minutes was that NASD planned to reduce the reporting period substantially after TRACE became operational. Consistent with the NASD's goal of a reduced reporting period, NSCC has publicly committed to support the proposed 45-minute reporting requirement.

The NASD proposal to reduce the reporting period at this time to 45 minutes is supported by statistical evidence from TRACE data. The data indicates that the industry generally has achieved technological readiness to implement the proposed rule change. For example, in the fourth quarter of 2002, eighty-three percent (83%) of all trades reported to TRACE were reported within 45 minutes of execution. NASD will work with firms that are currently not able to report trades within 45 minutes generally between the date of the SEC's approval of the proposed rule change, if so approved, and October 1, 2003, the planned date of implementation, to assist such firms to be ready and able to comply with a 45-minute reporting period on October 1, 2003.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act⁸, which requires, among other things, that NASD's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change, if approved, will provide NASD, as the self-regulatory organization designated to regulate the over-the-counter markets, with heightened capabilities to regulate and provide surveillance of the debt securities markets to prevent fraudulent and manipulative acts and practices, and will improve transparency by reducing the period between the time of

execution of a transaction and the dissemination of the transaction information, for securities subject to dissemination, for the protection of customers and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

NASD has requested that the Commission find good cause pursuant to Section 19(b)(2) for approving the proposed rule change prior to the 30th day after publication in the **Federal Register**. NASD believes that accelerated approval will benefit investors and member firms as follows. Member firms will receive prior notification, by several months, of a clear, fixed, certain deadline to implement a modest reduction in the reporting period. Firms will have sufficient notice to enable firms' operational staffs to make any necessary systems changes or enhancements to comply with the reduced reporting period on October 1, 2003. As noted above, NASD is aware that some firms may have greater operational and technical difficulties in making the operational enhancements to support a 45-minute reporting period. NASD is interested in working with these firms, and believes that an accelerated approval and a fixed implementation date would encourage such firms to begin addressing 45-minute reporting concerns earlier in 2003.

In addition, NASD believes that approval of this provision on an accelerated basis to create a date certain for implementation is likely to improve price transparency for the benefit of investors by effectively reducing the reporting period prior to the time this rule change would take effect on October 1, 2003. Specifically, members have indicated that they will begin to modify operations and systems, as necessary, as soon as the membership is certain that the reporting period will be reduced, and to what extent, and is able to ascertain the effective date of the new reporting requirement. As firms reduce

their reporting windows, reported prices will begin to be disseminated more quickly.

Moreover, NASD believes that members have been aware that the NASD would reduce the TRACE reporting period because NASD, the SEC, and the industry have publicly discussed reduction of the reporting period for several years. TRACE has now been operational for almost nine months, and NASD's proposal to reduce the reporting period would not take effect until October 1, 2003, which is 15 months from the date of implementation of TRACE. The Commission is not, at this time, granting accelerated approval of the proposed rule change.

NASD intends to respond to comments filed with the SEC regarding the proposed reduction.

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of NASD. All submissions should refer to file number SR-NASD-2003-78 and should be submitted by June 10, 2003.

⁸ 15 U.S.C. 78o-3(b)(6).