

modified from the original level established in July 2002.¹⁸ Firms that have a smaller volume of TRACE transactions now have a cost-effective reporting option (e.g., Level I Trade Report Web Browser). Larger volume firms have generally been reporting TRACE transaction data either through a CTCI line at a charge of \$25 per month, or through third-parties at a charge of \$25 per month.

Transaction Reporting Fees

Trade Reporting Fees

Following the start of operations of TRACE, NASD staff has been collecting data on trade reporting fees incurred by participants. The revenues generated by this fee were higher than originally forecasted. As a result, as of January 1, 2003, NASD reduced trade reporting fees by 5% from the original fee levels.¹⁹ NASD seeks permanent approval of the reduced trade reporting fees. Trade Reporting Fees will continue to be on a sliding scale, based upon the size of the transaction reported, in an effort to distribute the fees more equitably between retail oriented firms and institutionally oriented firms.²⁰ The range for trade reporting fees will be from \$0.475 to \$2.375 per transaction based on the size of the reported transaction. Trades up to and including \$200,000 par value will be charged a \$0.475 fee per trade; trades between \$201,000 par value and \$999,999 par value will be charged a fee of \$0.002375 multiplied by the number of bonds traded, and trades of \$1,000,000 par value or more will be charged a fee of \$2.375 per trade.

¹⁸ In the original fee approval order, the Web Browser Access Fee for each registered participant was: \$85 per month, per user ID, for the first user ID; \$75 per month for the second through ninth user ID; and \$70 per month for the second through tenth or more user ID, if the participant registers ten or more user IDs. For the fourth quarter of 2002, the Web Browser Access Fee was reduced to \$25 per month, per user ID for participants that reported less than 25 transactions during the months of October, November, and December 2002.

¹⁹ The original Trade Reporting Fees were also based on a sliding scale that ranges from \$0.50 to \$2.50 per transaction based on the size of the reported transaction. Trades up to and including \$200,000 par value are charged a \$0.50 fee per trade; trades between \$201,000 par value and \$999,999 par value are charged a fee of \$0.0025 multiplied by the number of bonds traded; and trades of \$1,000,000 par value or more are charged a fee of \$2.50 per trade.

²⁰ In approving the original TRACE fees on a pilot basis, the Commission stated that "[t]he Commission believes that this sliding scale structure promotes an equitable distribution of the relevant fees while reducing the possibility of unfair discrimination between customers, issuers, brokers, or dealers." See SEC Approval Order File No. SR-NASD-2002-63, Securities Exchange Act Release No. 46145 (June 28, 2002).

Corrective Transaction Fees

NASD proposes to set the permanent Cancel or Correct Fee at \$1.50 per corrected trade and the "As of" Trade Late reporting fee at \$3.00 per late trade. Cancel, correct, and "As of" transactions are used by participants to modify original trade entries. While a certain level of corrective transactions will always be necessary, NASD staff believes it is very important that trades be entered into the system correctly the first time to ensure that data disseminated through the TRACE system is accurate and to allow investors to rely on the data stream they receive. Further, continued high levels of corrective transactions will increase NASD's technology costs.

The original charge for the Cancel or Correct Fee and the "As of" Late Fee was \$3.00 for each such reported transaction. However, in the original fee proposal, NASD delayed the effectiveness of the Cancel or Correct Fee and the "As of" Late Fee to October 1, 2002. Based on NASD staff review of the data collected on such fees after the first three months of TRACE operation, on November 15, 2002, NASD submitted a proposed rule change to the SEC to phase in the implementation of the two fees during the last quarter of 2002 to allow participants greater time to adjust to the new system and focus on methods to reduce the likelihood of incurring such fees.²¹ For the month of October 2002, the Cancel or Correct Fee and the "As of" Late Fee charge assessed to each participant were reduced from \$3.00 per trade to \$1.50 per trade (a 50% discount), and for the month of November 2002, the Cancel or Correct Fee and the "As of" Late Fee were reduced from \$3.00 per trade to \$2.25 per trade (a 25% discount). On December 16, 2002, NASD submitted a rule filing to reduce the Cancel or Correct Fee from \$3.00 to \$1.50 effective January 1, 2003.

NASD staff has been working with the industry to determine the causes of erroneous transactions as part of a goal of reducing the number of corrective transactions reported to TRACE. NASD staff believes that over time the number of corrective transactions submitted to the system will decline. However, NASD believes that fees for corrective transactions are necessary to discourage erroneous reporting and to improve the integrity of disseminated data. Therefore, NASD is proposing that the SEC permanently approve the current corrective transaction fees.

Browse and Query Fees

NASD is proposing to eliminate the Browse and Query Fee of \$0.05 per page after the first page. This feature allows firms to review previously reported transaction data. Firms will continue to have access to this service, however, there will no longer be a fee associated with such service.

Market Data Fees

The current market data fees are as follows: (1) BTDS Professional Real-Time Data Display Fee—\$60 per month, per terminal; (2) BTDS Internal Usage Authorization Fee—\$500 per month, per application/service; (3) BTDS External Usage Authorization Fee—\$1,000 per month, per application/service; and (4) BTDS Non-Professional Real-Time Fee—\$1 per month, per terminal.

NASD is proposing to define the terms "Real-Time" and "Delayed-Time" as they relate to market data fees for TRACE transaction data. "Real-Time" as used in Rule 7010(k)(3) shall mean that period of time starting from the time of dissemination by NASD of transaction data on a TRACE-eligible security, and ending four hours thereafter. "Delayed-Time" as used in Rule 7010(k)(3) shall mean that period of time starting four hours after the time of dissemination by NASD of transaction data on a TRACE-eligible security, and ending at 11:59:59 p.m. Eastern Time that calendar day.

In addition, NASD is proposing to establish a charge to professionals for the use of Delayed-Time TRACE transaction data. Discussions with members of the bond industry indicate that there is increasing demand for Delayed-Time TRACE transaction data by professionals. Market professionals have indicated to NASD staff that, as a result of relatively low individual bond trading activity levels on any given day, Delayed-Time transaction data is useful to see overall patterns and trends, especially in pricing. Because of the time lag between trades in less active issues often exceeds four hours, the value of the last sale information on a four hour Delayed-Time basis often equals that of the real-time information. NASD staff believes that professionals who use this data in the course of their business or commercial activities should pay for the use of the data. Consequently, NASD staff believes that a charge for professionals for Delayed-Time data is appropriate.

The fee for the BTDS Professional Delayed-Time Data Display would be \$15 per month, per terminal, for each device receiving Delayed-Time TRACE

²¹ See SR-NASD-2002-167 (November 15, 2002).