

*Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File Number SR-CHX-2005-20. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CHX-2005-20 and should be submitted on or before August 30, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. E5-4275 Filed 8-8-05; 8:45 am]

BILLING CODE 8010-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-52191; File No. SR-NASD-2004-183]

**Self-Regulatory Organizations; National Association of Securities Dealers Inc.; Notice of Extension of the Comment Period for the Proposed Rule and Amendment No. 1 Thereto Relating to Sales Practice Standards and Supervisory Requirements for Transactions in Deferred Variable Annuities**

August 2, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule, and Amendment No. 1 thereto, relating to sales practice standards and supervisory requirements for transactions in deferred variable annuities. A description of the proposed rule and the amendments thereto is found in the notice of filing, which was published in the *Federal Register* on July 21, 2005.<sup>3</sup> The comment period expires on August 11, 2005.

To give the public additional time to comment on the proposed rule, the Commission has decided to extend the comment period pursuant to Section 19(b)(2) of the Act.<sup>4</sup> Accordingly, the comment period shall be extended until September 19, 2005.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an E-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASD-2004-183 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-9303.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 52046A (July 19, 2005); 70 FR 42126 (July 21, 2005).

<sup>4</sup> 15 U.S.C. 78s(b)(2).

All submissions should refer to File Number SR-NASD-2004-183. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule that are filed with the Commission, and all written communications relating to the proposed rule 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, 100 F Street, NE., Washington, DC 20549. Copies of such filings also will be available for inspection and copying at the principal office of NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASD-2004-183 and should be submitted on or before September 19, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. E5-4269 Filed 8-8-05; 8:45 am]

BILLING CODE 8010-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-52183; File No. SR-NASD-2005-063]

**Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change To Amend NASD Rule 7010(k) Relating to TRACE Transaction Data Fees**

August 1, 2005.

**I. Introduction**

On May 12, 2005, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

<sup>5</sup> 17 CFR 200.30-3(a)(12).

<sup>7</sup> 17 CFR 200.30-3(a)(12).

(“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend NASD Rule 7010(k) by adding an enterprise fee structure and lowering another fee for real-time transaction data of the Transaction Reporting and Compliance Engine (“TRACE”). The Commission published the proposed rule change for comment in the **Federal Register** on June 24, 2005.<sup>3</sup> The Commission received one comment letter on the proposal.<sup>4</sup> On July 26, 2005, NASD filed a response to the comment letter.<sup>5</sup> This order approves the proposed rule change.

## II. Description of the Proposed Rule Change

NASD proposes to amend NASD Rule 7010(k)(3)(A)(i), the Bond Trade Dissemination Service (“BTDS”) Professional Real-Time Data Display Fee, to enable an enterprise such as a broker-dealer to display real-time TRACE transaction data within the enterprise on an unlimited number of internal display devices for a fee of \$7,500 per month. NASD also proposes to amend NASD Rule 7010(k)(1)(A), Web Browser Access, to lower the fee for Level II Full Service Web Browser Access, so that the charge for the first user ID obtained for such access would be \$50 per month rather than the current \$80 per month.

### *Proposed “Enterprise” Fee*

Currently, NASD charges a subscriber \$60 per month, per terminal (the BTDS Professional Real-Time Data Display Fee) to display real-time TRACE transaction data. NASD is proposing to amend NASD Rule 7010(k)(3)(A)(i) to provide subscribers the option of paying a flat enterprise fee of \$7,500 per month instead of \$60 per terminal. NASD believes that the proposed rule change would benefit subscribers that have a large staff of potential internal data users who desire access to real-time TRACE transaction data. Instead of paying multiple \$60 fees, a subscriber would have the option to pay a flat fee of \$7,500 per month to display real-time TRACE transaction data on an unlimited number of internal terminals/workstations.

The proposed \$7,500 monthly enterprise fee option would lower the

fees paid by subscribers that currently pay to display real-time TRACE transaction data on more than 125 terminals. In addition, the \$7,500 fee option may encourage certain subscribers that currently pay to display real-time TRACE transaction data on fewer than 125 terminals to pay the proposed \$7,500 flat fee and broaden distribution of real-time TRACE transaction data within their organizations.

The proposed amendment to NASD Rule 7010(k)(3)(A)(i) would apply only to a subscriber’s internal display of real-time TRACE transaction data and would be independent of access method or data vendor. The \$7,500 enterprise fee option would include unlimited terminal display use for individual access for all of a subscriber’s employees and the employees of certain of its corporate affiliates.<sup>6</sup>

### *Level II Full Service Web Browser Access Fee*

NASD also proposes to amend NASD Rule 7010(k)(1)(A) to reduce fees paid by subscribers that receive real-time TRACE transaction data through Level II Full Service Web Browser Access. Such smaller subscribers are unlikely to benefit directly from NASD’s enterprise pricing proposal.

Currently, the implicit cost for the portion of Level II Full Service Web Browser Access for real-time TRACE transaction data is \$60 per month (per user ID).<sup>7</sup> NASD proposes to reduce the cost of the first user ID per subscriber to receive Level II Full Service Web Browser Access from \$80 per month to \$50 per month. This change would reduce a subscriber’s marginal cost for the data portion of Level II Full Service Web Browser Access for the first user ID by 50%, to \$30 per month. The proposal would reduce the costs of acquiring real-time TRACE transaction data for current subscribers, and NASD believes it might encourage some smaller professional market participants not currently obtaining real-time TRACE transaction data through any service to

obtain it through the Level II Full Service Web Browser Access.

Finally, NASD no longer refers to itself using its full corporate name, “the Association,” or “the NASD.” Instead, NASD uses the name “NASD” unless otherwise appropriate for corporate or regulatory reasons. Accordingly, the proposed rule change replaces, as a technical change, several references to “the Association” in Rule 7010 with the name “NASD.”

## III. Summary of Comments Received and NASD Response

The Commission received one comment letter on the proposal.<sup>8</sup> The commenter states that the proposed \$7,500 enterprise fee “would benefit very few users” and “is not in the best interest of the industry as a whole.”<sup>9</sup> The commenter also states that “NASD fails to address what possible benefits are derived from a firm distributing the transaction data more widely within the organization.”<sup>10</sup> In response, NASD states that it believes that broadening the distribution of real-time TRACE transaction data “will benefit the investing public and market professionals, \* \* \* will facilitate its use, for example, by persons who provide brokerage and/or advisory services to retail investors, and will provide such professionals with an additional tool to better serve and inform retail investors.”<sup>11</sup> In addition, the commenter suggests that NASD modify the TRACE fee structure so that “firms submitting fewer than 1,000 trades per month are charged nothing to access the system.”<sup>12</sup> In response, NASD states that it believes that lowering “the monthly fee for the first user within a member or other organization of the Level II Full Service Web Browser Access, by lowering the portion of that fee attributable to Real-Time TRACE transaction data access, is a fair and balanced approach by NASD, and provides for the equitable allocation of reasonable fees among members and other persons desiring access to TRACE market data.”<sup>13</sup>

## IV. Discussion

After carefully considering the proposed rule change, the comment submitted, and NASD’s response, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 51874 (June 17, 2005), 70 FR 36681.

<sup>4</sup> See letter from Stephen Tenison to Jonathan G. Katz, Secretary, Commission, dated July 6, 2005 (“Tenison Letter”).

<sup>5</sup> See letter from James L. Eastman, Assistant General Counsel, NASD, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated July 26, 2005 (“NASD Letter”).

<sup>6</sup> A subscriber wishing to take advantage of this option would enter into an agreement directly with NASD, which in turn would notify the data vendors with which the subscriber does business to provide blanket permission for use of real-time TRACE transaction data to any user within that organization.

<sup>7</sup> Level II Full Service Web Browser Access today costs \$80 per month. However, Level II Full Service Web Browser Access also grants users Level I Web Trade Report Only Browser Access (for trade reporting), which otherwise would cost an additional \$20 per month, per user ID. Therefore, today the marginal cost of Level II Full Service Web Browser Access is \$60 per month, per user ID.

<sup>8</sup> Tenison Letter, *supra* note 4.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> NASD Letter, *supra* note 5.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

and regulations thereunder that are applicable to a national securities association.<sup>14</sup> In particular, the Commission believes that the proposed rule change is consistent with Section 15A(b)(6) of the Act,<sup>15</sup> which requires, among other things, that the rules of an association 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, and Section 15A(b)(5) of the Act,<sup>16</sup> which requires, among other things, that rules of an association provide for the equitable allocation of reasonable dues, fees, and other charges among members, issuers, and other persons using any facility or system which the association operates or controls. The Commission believes that eliminating the marginal cost of accessing real-time TRACE transaction data beyond a certain number of terminals within a subscriber's organization should encourage wider distribution of such data. Furthermore the Commission believes that reducing by \$30 the fee for the first user ID per subscriber to receive Level II Full Service Web Browser Access is reasonable and consistent with the Act.

## V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>17</sup> that the proposed rule change (SR-NASD-2005-063) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. E5-4270 Filed 8-8-05; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52192; File No. SR-NASD-2005-006]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change and Amendments Nos. 1 and 2 Thereto To Require Semi-Annual Financial Reporting by Foreign Private Issuers

August 2, 2005.

On January 18, 2005, the National Association of Securities Dealers, Inc. ("NASD") through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to require semi-annual financial reporting by foreign private issuers. Nasdaq submitted Amendment No. 1 to its proposed rule change on February 4, 2005 and submitted Amendment No. 2 to its proposed rule change on June 6, 2005. The proposed rule change, as amended, was published for comment in the **Federal Register** on June 29, 2005.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

The proposed rule change is designed to create a uniform standard, applicable to all Nasdaq-listed foreign private issuers, to provide investors with access to more recent financial information. The proposal accomplishes this by requiring that foreign private issuers provide, in a press release that would also be submitted on a Form 6-K, an interim balance sheet and semi-annual income statement, not later than six months following the end of the issuer's second quarter. Under the proposed rule, the information provided would be required to be translated into English, but would not have to be reconciled to U.S. Generally Accepted Accounting Principles ("GAAP").

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association<sup>4</sup> and, in particular, the requirements of Section

15A of the Act.<sup>5</sup> Specifically, the Commission finds the proposal to be consistent with Section 15A(b)(6) and 15A(b)(9) of the Act<sup>6</sup> in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, remove impediments to a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission believes the proposed rule will provide useful disclosure to investors regarding foreign private issuers that trade on Nasdaq.

In order to allow sufficient time for foreign private issuers to modify any necessary practices regarding the preparation of interim financial reports, Nasdaq suggests that the proposed rule become effective for interim periods ending after January 1, 2006 and the Commission believes that this is reasonable.<sup>7</sup>

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-NASD-2005-006), be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. E5-4277 Filed 8-8-05; 8:45 am]

**BILLING CODE 8010-01-P**

<sup>14</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>15</sup> 15 U.S.C. 78o-3(b)(6).

<sup>16</sup> 15 U.S.C. 78o-3(b)(5).

<sup>17</sup> 15 U.S.C. 78s(b)(2).

<sup>18</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 51905 (June 29, 2005), 70 FR 37456.

<sup>4</sup> In approving this proposed rule change, as amended, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>5</sup> 15 U.S.C. 78o-3.

<sup>6</sup> 15 U.S.C. 78o-3(b)(6) and (b)(9).

<sup>7</sup> Nasdaq has indicated that, for example, in the case of a foreign private issuer with a fiscal year-end of December 31st, the rule first would be applicable for the semi-annual interim period ending June 30, 2006. Under the proposed rule, such an issuer would be required to provide an interim balance sheet and semi-annual income statement on a press release and Form 6-K not later than six months thereafter (December 31, 2006). Telephone conversation between Nasdaq staff and Division Staff on July 27, 2005.

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> 17 CFR 200.30-3(a)(12).