

requirements are designed to assist securities regulators in conducting efficient examinations. The Commission estimates, therefore, that on average each broker-dealer would spend 10 minutes each year to ensure compliance with these requirements, yielding a total additional burden of about 1,203 hours.<sup>13</sup>

Thus, the Commission estimates that the total annual burden of the amendments to Rule 17a-3 will be 1,288,598 hours. The Commission further estimates that broker-dealers would incur a one-time burden to update certain forms, to include additional information on the new account form and provide customers with an address as to where they should direct complaints, of 28,856 hours.<sup>14</sup> Finally, based on comments received in response to the reproposing release,<sup>15</sup> the Commission estimates that broker-dealers will incur \$21.2 million in start-up costs for systems and equipment development, and up to \$24.8 million in annual costs for postage and systems development in order to comply with the amendments to Rule 17a-3. On January 30, 2002, OMB approved the collections of information contained in the amendments to rule 17a-3.

### C. Total Annual Reporting and Recordkeeping Burden of Amendments to Rule 17a-4

The amendments to Rule 17a-4 require that certain information be kept for prescribed periods of time. The Commission estimates that compliance with the amendments for Rule 17a-4 would require an additional 28,868 hours each year.<sup>16</sup> On April 18, 2002, OMB approved the collections of information contained in the amendments to Rule 17a-4.

### III. Additional Information

The amendments to Rules 17a-3 and 17a-4 (OMB Control Nos. 3235-0033 and 3235-0279, respectively) were adopted pursuant to the authority conferred on the Commission by the Exchange Act, including sections 17(a) and 23(a). An agency may not conduct or sponsor, and a person is not required

to respond to, a collection of information unless it displays a currently valid control number. We are providing this notice to inform the public that the Commission has received OMB approval and OMB has issued a control number for this collection.

It is mandatory for all brokers and dealers to create records as required pursuant to Rules 17a-3 and to retain those and other specified records as set forth in Rule 17a-4.

The records required by the amendments to the Books and Records Rules are not filed with the Commission, but are available to the examination staffs of the Commission, State regulatory authorities, and the SROs. Subject to the provisions of the Freedom of Information Act, 5 U.S.C. 552 ("FOIA") and the Commission's rules thereunder (17 CFR 200.80(b)(4)(iii)), the Commission generally does not publish or make available information contained in reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an examination or inspection of the books and records of any person or any other investigation.

Dated: March 26, 2003.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 03-7617 Filed 3-28-03; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47566; File No. SR-NASD-2003-41]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Disseminate Up to Thirty Additional Corporate Bonds Under the Trade Reporting and Compliance Engine ("TRACE") Rules

March 25, 2003.

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> notice is hereby given that on March 18, 2003, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. NASD

has designated the proposed rule change as constituting a "non-controversial" rule change pursuant to section 19(b)(3)(A)(iii) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission.<sup>5</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to amend Rule 6250(a)(4) to increase the number of TRACE-eligible securities to be disseminated under the rule from 90 securities to up to 120 securities. Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in brackets.

\* \* \* \* \*

#### 6250. Dissemination of Corporate Bond Trade Information

##### (a) General Dissemination Standard

Immediately upon receipt of transaction reports received at or after 8:00 a.m. through 6:29:59 p.m. Eastern Time, NASD will disseminate transaction information (except that market aggregate information and last sale information will not be updated after 5:15 p.m. Eastern Time) in the securities described below.

(1) No Change.

(2) No Change.

(3) No Change.

(4) Ninety to 120 TRACE-eligible securities designated by NASD that are rated "Baa/BBB" at the time of designation, according to the following standards.

(A) Three groups, *each* composed of *up to 50* [30] TRACE-eligible securities (Group 1, Group 2, and Group 3), *but collectively not exceeding 120* shall be designated by NASD. At the time of designation, each TRACE-eligible security in Group 1 must be rated "Baa1/BBB+[:]" and each TRACE-eligible security in Group 2 and Group 3 must be rated, respectively, "Baa2/BBB - [:]" and "Baa3/BBB - [:]" [provided that if] *If a TRACE-eligible security is rated one of the "Baa" ratings by Moody's and one of the "BBB" ratings by S&P and the ratings indicate two different levels of credit quality, the lower of the two ratings will be used to determine the group to which a debt*

<sup>13</sup> (7,217 broker-dealers × 10 minutes) / 60 minutes.

<sup>14</sup> 7,217 total active registered broker-dealers × 4 hours each. This includes the time it would take for a broker-dealer to draft the additional language and incorporate it into its present forms.

<sup>15</sup> Exchange Act Release No. 40518 (Oct. 2, 1998), 63 FR 54404 (Oct. 9, 1998).

<sup>16</sup> The Commission estimates that, on average, each broker-dealer (7,217) would spend four hours each year to ensure that it is in compliance with the amendments to Rule 17a-4 and to produce required records promptly at an office when so required.

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> NASD asked the Commission to waive the 30-day operative delay. See Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

security will be assigned under this paragraph (a)(4).

(B) No Change.

(C) No Change.

(b) through (d) No Change.

\* \* \* \* \*

## 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

The purpose of the proposed rule change is to amend Rule 6250(a)(4) to increase the number of TRACE-eligible securities rated "Baa/BBB"<sup>6</sup> that will be subject to dissemination from 90 bonds to up to 120 bonds. This minor adjustment in the number of "Baa/BBB"-rated bonds to be disseminated under the Trade

**Reporting and Compliance Engine ("TRACE") rules is being proposed so that NASD may continue to increase transparency as appropriate, while being cognizant of the potential adverse effects, if any, that transparency may have on the liquidity of the corporate bond market.**

On July 1, 2002, when TRACE began, transaction information was disseminated in two types of corporate

bonds: (1) TRACE-eligible securities having an initial issuance size of \$1 billion or greater that are Investment Grade at the time of receipt of the transaction report; and (2) 50 actively traded TRACE-eligible securities that are Non-Investment Grade and meet other criteria set forth in Rule 6250(a)(2). Approximately 540 corporate bonds were disseminated under the two categories.

On December 6, 2002, NASD filed SR-NASD-2002-174, a proposal to increase substantially the dissemination of Investment Grade TRACE-eligible securities. NASD proposed, and obtained approval from the SEC, to increase transparency by requiring dissemination of price and other transaction information in two additional categories of corporate bonds. They are: (1) Any TRACE-eligible security that is Investment Grade, is rated by Moody's as "A3" or higher, and by S&P's as "A-" or higher, and has an original issue size of \$100 million or greater; and (2) ninety TRACE-eligible securities rated "Baa/BBB" at the time of designation, with the bonds being identified in three subgroups to represent the "Baa/BBB" credit spectrum (i.e., "Baa1/BBB+," "Baa2/BBB," and "Baa3/BBB-").<sup>7</sup>

On March 3, 2003, NASD began disseminating the TRACE-eligible securities rated "A3/A-" or higher and with original issue size of 100 million or greater, which increased the number of bonds subject to dissemination to over 4,000 corporate bonds.<sup>8</sup> However, NASD withheld the dissemination of ninety bonds rated "Baa/BBB" to provide time to assure that the bonds designated for dissemination were appropriately diverse and representative of the "Baa/BBB"-rated group. During the bond identification process, NASD, based on guidance from independent economists, determined that the database of disseminated transaction data on "triple-B-rated bonds" should be increased to include transaction information on up to 120 TRACE-eligible securities to increase transparency in a sufficient number of "Baa/BBB" bonds to improve significantly the quality of the data to be collected. The increased transparency will provide a better foundation for determining the effect, if any, of transparency on liquidity.

#### 2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,<sup>9</sup> 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 requiring the dissemination of up to 30 additional "Baa/BBB"-rated TRACE-eligible securities will protect investors and the public interest by increasing transparency in the debt securities markets and serving as an appropriately designed database to aid NASD in determining if transparency has an adverse effect on the liquidity of the bond market.

### 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 on this proposed rule change were neither solicited nor received. However, written comments were solicited concerning the dissemination of a representative group of bonds rated "Baa/BBB" with the publication for notice and comment of SR-NASD-2002-174, and two comment letters were received. NASD represents that these two comment letters generally favored the NASD's proposed rule change.<sup>10</sup> After considering the comments, the SEC approved SR-NASD-2002-174 on January 31, 2003.<sup>11</sup> NASD represents that its proposal in this rule filing is a minor, non-controversial proposed change to the provision in Rule 6250(a)(4) providing for the dissemination of TRACE-eligible securities rated "Baa/BBB."

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

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public

<sup>6</sup> Moody's Investors Service, Inc. ("Moody's") is a nationally recognized statistical rating organization. Moody's is a registered trademark of Moody's Investors Service. Moody's ratings are proprietary to Moody's and are protected by copyright and other intellectual property laws. Moody's licenses ratings to NASD. Ratings may not be copied or otherwise reproduced, repackaged, further transmitted, transferred, disseminated, redistributed or resold, or stored for subsequent use for any purpose, in whole or in part, in any form or manner or by any means whatsoever, by any person without Moody's prior written consent.

Standard & Poor's, a division of the McGraw-Hill Companies, Inc. ("S&P"), is a nationally recognized statistical rating organization. S&P's ratings are proprietary to S&P and are protected by copyright and other intellectual property laws. S&P licenses ratings to NASD. Ratings may not be copied or otherwise reproduced, repackaged, further transmitted, transferred, disseminated, redistributed or resold, or stored for subsequent use for any purpose, in whole or in part, in any form or manner or by any means whatsoever, by any person without S&P's prior written consent.

<sup>7</sup> Securities Exchange Act Release No. 47302 (January 31, 2003), 68 FR 6233 (February 6, 2003) (order approving SR-NASD-2002-174).

<sup>8</sup> See NASD Notice to Members 03-12 (February 2003).

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

<sup>10</sup> Securities Exchange Act Release No. 47057 (December 19, 2002), 67 FR 79210 (December 27, 2002) (notice of filing of and request for comment on SR-NASD-2002-174).

<sup>11</sup> See note 7, *supra*.

interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days (or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest) from the date on which it was filed, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. NASD has requested that the Commission waive the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii),<sup>14</sup> because (1) the public interest is furthered and the protection of investors is enhanced by increasing transparency in the "Baa/BBB"-rated segment of the corporate bond market; (2) NASD briefly deferred the dissemination of "Baa/BBB"-rated TRACE-eligible securities in order to designate a representative group of such securities; and (3) for the convenience of investors, broker-dealers, other market participants, and NASD, NASD will initiate the dissemination of all the "Baa/BBB"-rated corporate bonds approved for dissemination on the same date, which will occur as soon as possible after the filing of this rule filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative date will permit NASD to expand dissemination of "Baa/BBB"-rated corporate bonds immediately. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>15</sup>

At any time within 60 days of the filing of the proposed rule change, the

Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.<sup>16</sup>

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal 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-2003-41 and should be submitted by April 21, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 03-7613 Filed 3-28-03; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47563; File No. SR-OC-2003-03]

### Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of Proposed Rule Change by OneChicago, LLC Relating to Position Limits

March 24, 2003.

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and rule 19b-7 under the Act,<sup>2</sup> notice is hereby given that on February 13, 2003, OneChicago, LLC

("OneChicago") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change described in items I and II below, which items have been prepared by OneChicago. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. OneChicago also has filed the proposed rule change with the Commodity Futures Trading Commission ("CFTC"), together with a written certification under section 5c(c) of the Commodity Exchange Act<sup>3</sup> on February 10, 2003.

#### I. Self-Regulatory Organization's Description of the Proposed Rule Change

OneChicago proposes to amend OneChicago rules 414(a) and 902(f) relating to position limits to reference CFTC Regulation 41.25.<sup>4</sup> The text for proposed rule change follows.

Proposed new language is *italicized*; proposed deletions are in [brackets].

#### Position Limits and Price Limits

##### 414. Position Limits

(a) Position limits shall be as established by the Exchange from time to time *as permitted by Commission Regulation § 41.25*. Such position limits may be specific to a particular Contract or delivery month or may be established on an aggregate basis among Contracts or delivery months. Except as specified in paragraph (b) below, no Clearing Member, Exchange Member or Access Person shall control, or trade in, any number of Contracts that exceed any position limits so established by the Exchange. Except as specified in paragraph (b) below, no Clearing Member, Exchange Member or Access Person shall be permitted to enter into any transaction on the Exchange that would cause such Clearing Member, Exchange Member or Access Person to exceed any position limits.

(b)-(g) No Change

\* \* \* \* \*

##### 902 Contract Specifications

(a)-(e) No Change  
(f) Speculative Position Limit. For purposes of rule 414, the position limit applicable to positions in any Single Stock Future held during the last five trading days of an expiring contract month shall be *in accordance with Commission Regulation § 41.25* [13,500 contracts (net), long or short, in such contract month. There shall be no other position limits for Single Stock Futures].  
(g)-(i) No Change

<sup>3</sup> 7 U.S.C. 7a-2(c).

<sup>4</sup> 17 CFR 41.25.

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>15</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>16</sup> See section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

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

<sup>1</sup> 15 U.S.C. 78s(b)(7).

<sup>2</sup> 17 CFR 240.19b-7.