FINRA
Financial Industry Regulatory Authority

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September 5, 2008

Florence E. Harmon
Acting Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

RE: File No. SR-NASD-2005-100 – Response to Comments

Dear Ms. Harmon:

On August 19, 2005, Financial Industry Regulatory Authority ("FINRA") (f/k/a/ National Association of Securities Dealers ("NASD")) filed with the Securities and Exchange Commission ("SEC" or "Commission") the above-referenced rule filing proposing to require members to provide customers in TRACE-eligible debt securities transactions with additional, transaction-specific disclosures and to notify customers of the availability of a disclosure document. FINRA amended SR-NASD-2005-100 with the filing of Amendment No. 1 on December 21, 2005, Amendment No. 2 on January 26, 2007, Amendment No. 3 on July 16, 2007, and Amendment No. 4 on August 21, 2007. On October 19, 2007, the Commission published for comment the proposed rule change, as amended through Amendment No. 4, in the Federal Register.[1] The Commission received four comment letters in response to the Federal Register publication.[2]

Three commenters opposed one or more of the following specific disclosures required in the proposed rule change: (i) the TRACE symbol; (ii) the yield to maturity in certain instances; (iii) the lowest credit rating (of those credit ratings that a member is required to disclose under proposed Rule 2231(b)(3)(A)(i), (ii) or (iii)); and (iv) the date that such credit rating was assigned.[3] In addition, one commenter opposed requiring a broker-

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1 Securities Exchange Act Release No. 56661 (October 15, 2007), 72 FR 59321 (October 19, 2007) (notice of filing of SR-NASD-2005-100).

2 The Commission received comment letters from: Manisha Kimmel, Executive Director, Financial Information Forum ("FIF"), dated December 3, 2007 ("FIF Letter"); Donald E. Merrifield, Senior Vice President, and Wesley Ringo, Senior Vice President, Hilliard Lyons, 500 West Jefferson Street, Louisville, KY 40202, dated December 3, 2007 ("Hilliard Letter"); M.E. Midkiff, III, President, Midkiff & Stone Capital Group, Inc., dated December 3, 2007 ("Midkiff Letter"); and Richard L. Sandow, Southlake Capital Advisors, Inc., dated November 28, 2007 ("Sandow Letter").

3 On August 4, 2008, FINRA filed Amendment No. 5 to SR-NASD-2005-100. *See* FIF Letter, Hilliard Letter and Midkiff Letter.

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dealer to review the qualification of an account as an "institutional account" at least once annually.[4] Two commenters expressed concern that the total amount of additional information to be provided would overwhelm customers.[5] Also, two commenters stated that the proposal, if adopted, would be difficult and expensive to implement.[6] A fourth commenter suggested that the information required to be disclosed should include *additional* data for certain variable rate TRACE-eligible securities transactions.[7]

The changes that FINRA proposed in Amendment No. 5 to SR-NASD-2005-100 moot many of the issues and concerns raised in the FIF, Hilliard and Midkiff Letters and significantly reduce any operational burdens to members. First, the TRACE symbol, the credit rating, and the date such rating was assigned may be disclosed by reference a website, including FINRA's website. (We note that if a member discloses multiple ratings, the disclosure of multiple credit ratings includes disclosure of the "lowest" credit rating.) Second, FINRA deleted the requirement to disclose yield to maturity and the specific requirement to assess, at least once annually, if a customer account is an institutional account. In the latter instance, FINRA noted that this principle-based approach does not eliminate the obligation of the broker-dealer to makes such assessments, but simply eliminates any regulated schedule upon which the assessment must be done. Third, the operational burdens that the three commenters above raised are addressed, given the ability of a broker-dealer to provide nearly all of the information required to be disclosed via one or two Internet Web sites as described in Amendment No. 5. Fourth, FINRA disagrees with the commenters' assertion that too much information is being provided to customers, believes that it is important to provide customers with transaction-relevant information and declines to amend the proposed rule change further based on this comment.

One commenter suggested that the proposed information required to be disclosed should include *additional* data for certain variable rate TRACE-eligible securities transactions. The commenter states that for the vast majority of variable rate debt securities, known as step-up notes, the future interest or coupon rates are known at the time of sale and therefore the broker-dealer should disclose such information at the time the confirmation is provided, instead of requiring the customer to make a written request as is now set forth in proposed Rule 2231. FINRA is reviewing the assumptions on which the suggestion is based and may amend proposed Rule 2231 further (in the future, after such time as when the Commission may approve this rule filing) to incorporate this disclosure requirement.

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4 *See* FIF Letter.

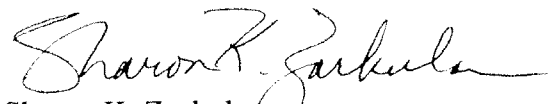
5 *See* Hilliard Letter and Midkiff Letter.

6 *See* FIF Letter and Hillliard Letter.

7 *See* Sandow Letter.

If you have any questions, please contact me at (202) 728-8985; or at Sharon.Zackula@finra.org. The fax number of the Office of General Counsel is 202 728-8264.

Very truly yours,



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