

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-53756; File No. SR-ISE-2005-56)

May 3, 2006

Self-Regulatory Organizations; International Securities Exchange, Inc.; Order Granting Approval of a Proposed Rule Change and Amendment No. 1 Thereto Establishing Fees for Enhanced Sentiment Market Data

On December 1, 2005, the International Securities Exchange, Inc. (“ISE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² a proposed rule change to amend its Schedule of Fees to establish fees for enhanced sentiment market data, as described below. On March 14, 2006, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the Federal Register on March 28, 2006.³ The Commission received no comments on the proposal.

By this proposed rule change, the Exchange seeks to establish fees for a new product, enhanced sentiment market data, which is based upon the ISE Sentiment Index®, or ISEE. The ISEE, which is created by the ISE, provides an intra-day picture of how investors view stock prices by assessing customers’ option trading activity. More specifically, the ISEE measures opening long customer transactions on the ISE. The ISE updates the current ISEE value hourly during market hours and posts it for free on its Web site.⁴

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 53532 (March 21, 2006), 71 FR 15501 (“Notice”).

⁴ http://www.iseoptions.com/marketplace/statistics/sentiment_index.asp.

The ISEE is a single value for the overall market sentiment. In contrast, the enhanced sentiment market data will provide more specific information that will allow an end user to retrieve a sentiment value for an individual symbol using a query tool. For example, an end user interested in the sentiment value for only the Nasdaq 100 Tracking Stock (symbol QQQQ) would just enter that symbol into the query tool interface to retrieve the sentiment value. Additionally, the enhanced sentiment market data will include a sentiment scanning tool that will allow a user to comb the market for sentiment levels that meet pre-defined parameters. Enhanced sentiment market data will be a purely optional product; it is not necessary to subscribe to this service to trade options on the ISE.⁵

The Exchange will offer this product to on-line investors, on a subscription basis, directly and through a Broker Marketing Alliance, an arrangement between ISE and a participating U.S. broker-dealer that markets the enhanced sentiment offering to its customers. The Exchange proposes four subscription levels, based on the number of customer queries. Clients of participating brokers will pay less at each of the same four subscription levels, and the participating broker-dealers will receive a rebate of 35% of the subscription fee collected from subscribers. In addition, the Exchange will pay a bonus rebate to broker-dealers for achieving subscription levels based on the size of their firm and the number of clients that subscribe to the service.⁶

⁵ See telephone conversation between Samir Patel, Assistant General Counsel, ISE, and Christopher Chow, Special Counsel, Commission, on April 28, 2006.

⁶ See Notice, supra at note 3.

The Commission has reviewed carefully the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁷ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,⁸ which requires that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The Exchange states that it established the proposed tiered pricing structures for enhanced sentiment data based upon a survey of financial services industry participants regarding their level of interest in proprietary market data offerings, a business plan it developed based on the results of that survey, and the advice of a consultant retained to opine on the structure and amount of fees to charge for the product.

⁷ 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).

⁸ 15 U.S.C. 78f(b)(4).

IT IS THEREFORE ORDERED, pursuant to section 19(b)(2) of the Act,⁹ that the proposed rule change as amended be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Nancy M. Morris
Secretary

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).