

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56093; File No. SR-ISE-2007-58)

July 18, 2007

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of a Proposed Rule Change Relating to ISEE Select Market Data Fees

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 6, 2007, the International Securities Exchange, LLC (“ISE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. 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

ISE proposes to amend its Schedule of Fees to adopt a subscription fee for an enhanced sentiment market data offering. The text of the proposed rule change is available at the Commission’s Public Reference Room, at the Exchange, and at www.ise.com.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange 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. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to a filing previously approved by the Commission, the Exchange currently sells on a subscription basis, to both members and non-members, ISEE Select™ (“ISEE Select”), an enhanced sentiment market data offering.³ Earlier this year, the Exchange also adopted a multi-product discount for the ISEE Select offering.⁴ ISEE Select is based on the ISE Sentiment Index®, or ISEE®, a calculation that represents an overall view of market sentiment. The ISEE® provides an intra-day picture of how investors view stock prices by assessing customers’ option trading activity. Unlike the traditional put/call ratio which makes no distinction between customer, market maker or firm transactions, the ISEE® measures only opening long customer transactions on ISE. ISE updates the current ISEE® value hourly during market hours and posts it for free on its Web site.⁵

Pursuant to the Initial Filing, ISEE Select allows subscribers to identify bullish and bearish investor sentiment for nearly any issue traded on the Exchange using the same formula that is used for the ISEE calculation. Where the ISEE® is a single value for the overall market sentiment, ISEE Select provides specific information to allow an end user to retrieve a sentiment value for an individual symbol via a user-defined query tool. In addition to the user-defined

³ See Securities Exchange Act Release Nos. 53532 (March 21, 2006), 71 FR 15501 (March 28, 2006) (SR-ISE-2005-56) (Notice of Filing of Proposed Rule Change to Establish Fees for Enhanced Sentiment Market Data) and 53756 (May 3, 2006), 71 FR 27526 (May 11, 2006) (SR-ISE-2005-56) (Order Approving Proposed Rule Change to Establish Fees for Enhanced Sentiment Market Data) (“Initial Filing”).

⁴ See Securities Exchange Act Release No. 55288 (February 13, 2007), 72 FR 8219 (February 23, 2007) (SR-ISE-2007-09) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Fee Discounts for Enhanced Sentiment Market Data Offering) (“Subsequent Filing”).

⁵ http://www.iseoptions.com/marketplace/statistics/sentiment_index.asp

query tool, ISE also offers a pre-defined scanning tool that combs the market for sentiment levels that meet pre-defined parameters. ISEE Select provides sentiment values for particular indices, industry sectors or individual stocks and is calculated three times per hour versus only one time per hour for the ISEE[®].

ISEE Select is currently available to on-line investors on a subscription basis as follows:

(i) 100 user-defined queries for \$11.95 per month; (ii) 200 user-defined queries for \$14.95 per month; (iii) unlimited user-defined queries for \$19.95 per month; and (iv) unlimited pre-defined queries for \$11.95 per month. ISEE Select is also offered by third-parties that participate in the Exchange's Marketing Alliance program.⁶ Customers of participating third-parties are able to take advantage of a discounted price for the same four subscription levels. The discounted rates for these subscribers are as follows: (i) 100 user-defined queries for \$9.95 per month; (ii) 200 user-defined queries for \$11.95 per month; (iii) unlimited user-defined queries for \$15.95 per month; and (iv) unlimited pre-defined queries for \$9.95 per month.

Pursuant to the Subsequent Filing, the Exchange also offers to both member and non-member subscribers the following multi-product discounted subscription fees: \$24.95 per month for customers who subscribe directly through ISE to both the unlimited pre-defined query and

⁶ When the Commission published the Initial Filing, the Marketing Alliance program was known as the ISE Broker Marketing Alliance, and participation in it was limited to broker-dealers. Following the launch of the ISEE Select market data offering, and in response to the interest the Exchange received from many non-broker-dealers wishing to participate in the Marketing Alliance program, the Exchange subsequently expanded the program by eliminating its limitation to only broker-dealers. See Securities Exchange Act Release Nos. 54508 (September 26, 2006) 71 FR 58459 (October 3, 2006) (SR-ISE-2006-44) (Notice of Filing of Proposed Rule Change to Expand the Broker Marketing Alliance to Include Non-Broker-Dealers with Regard to Enhanced Sentiment Market Data Offering) and 54704 (November 3, 2006), 71 FR 65859 (November 9, 2006) (SR-ISE-2006-44) (Order Approving Proposed Rule Change to Expand the Broker Marketing Alliance to Include Non-Broker-Dealers with Regard to Enhanced Sentiment Market Data Offering).

either 200 user-defined queries or unlimited user-defined queries; or \$19.95 per month for customers of the Marketing Alliance program partners that subscribe to both the unlimited pre-defined query and either 200 user-defined queries or unlimited user-defined queries. The Exchange notes that the multi-product discounts noted above are a reduction of the actual subscription fees for the products to which they apply. If not for the multi-product discount, for on-line subscribers, these fees would be (i) \$26.90 per month for subscribers to both unlimited pre-defined queries and 200 user-defined queries, or (ii) \$31.90 per month for subscribers to both unlimited pre-defined queries and unlimited user-defined queries. For customers of the Marketing Alliance program partners, if not for the multi-product discount, these fees would be (i) \$21.90 per month for subscribers to both unlimited pre-defined queries and 200 user-defined queries, or (ii) \$25.90 per month for subscribers to both unlimited pre-defined queries and unlimited user-defined queries.

The Exchange now proposes to offer to both member and non-member subscribers a data feed that will provide a bulk delivery of ISEE Select values. The existing ISEE Select browser application allows a subscriber to access ISEE Select values for up to five securities simultaneously. The current proposal, on the other hand, will allow subscribers to access numerous ISEE Select values simultaneously. The actual potential number of ISEE Select values accessible by this proposed data feed offering can range from one to more than 1,700.

The ISEE Select data feed will have a flat rate subscription fee based on a fixed number of end users that each subscriber allows to view the data, as follows: \$0.10 per end user, per month, for a minimum of 10,000 end users; \$0.10 for each additional end user, per month, up to 74,999 end users, in increments of 5,000 end users; \$0.084 per end user, per month, for redistribution from 75,000 to 199,999 end users, in increments of 5,000 end users; and \$0.0825

per end user, per month, for redistribution to 200,000 or more end users, in minimum increments of 5,000 end users. An example of the monthly subscription fee for a subscriber with 100,000 end users is as follows:

Number of Users per Increment	Monthly Fee per User	Monthly Sub-Total
10,000	\$.10	\$1,000
10,001-74,999	\$.10	\$6,500
75,000-100,000	\$.084	\$2,100
Monthly Total		\$9,600
Average Fee per User		\$.096

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(4) of the Act,⁷ that an exchange have an equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. In particular, the proposed rule filing will provide members and non-members with the ability to subscribe to a data feed of ISEE Select values at a flat rate subscription basis for redistribution to their customers.

B. Self-Regulatory Organization’s Statement on Burden on Competition

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

⁷ 15 U.S.C. 78f(b)(4).

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- A. by order approve such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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. Please include File Number SR-ISE-2007-58 on the subject line.

Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2007-58. 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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such 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-ISE-2007-58 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Florence E. Harmon
Deputy Secretary

⁸ 17 CFR 200.30-3(a)(12).