

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57972; File No. SR-ISE-2008-44)

June 16, 2008

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Fees for Enhanced Sentiment Market Data

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 9, 2008, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. 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

The ISE is proposing to amend its Schedule of Fees to remove fees for enhanced sentiment market data. The text of the proposed rule change is available on the Exchange's Web site (<http://www.ise.com>), at the principal office of the Exchange, and at the Commission's Public Reference Room.

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 ISE 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

below. The ISE 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

Pursuant to a filing previously approved by the Commission, the Exchange currently sells on a subscription basis, to both members and non-members, an enhanced sentiment market data offering that is geared primarily to retail investors.³ This offering 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 the ISE. The ISE updates the current ISEE value hourly during market hours and posts it for free on its Web site.⁴

This retail-oriented enhanced sentiment market data offering is available to on-line investors on a subscription basis and is also offered by third-parties that participate in the Exchange's Marketing Alliance program.⁵

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); 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) (the "Initial Filing").

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

⁵ 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

The Exchange subsequently also introduced multi-product discounts for subscriptions to this offering.⁶

The Exchange currently also sells on a subscription basis, to both members and non-members, an enhanced sentiment market data offering that is geared primarily to institutional subscribers.⁷ This institution-oriented enhanced sentiment market data offering is a data feed that provides a bulk delivery of up to 1,700 ISEE Select values.⁸

The Exchange has now determined, for business reasons, to terminate, effective August 1, 2008, the retail-oriented enhanced sentiment market data offering. Accordingly, the Exchange proposes to remove reference to this product and associated fees from its fee schedule. The Exchange is not proposing to make any changes to the institution-oriented enhanced sentiment market data offering, known as the ISEE Select Data Feed, as that offering will continue to be sold by ISE.

2. Statutory Basis

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); 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).

⁶ 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).

⁷ See Securities Exchange Act Release No. 56315 (August 24, 2007), 72 FR 50148 (August 30, 2007) (SR-ISE-2007-58).

⁸ Id.

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(4)⁹, that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

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

The 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.

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

Because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(6) thereunder.¹¹

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

⁹ 15 U.S.C. 78f(b)(4).

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6).

necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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-2008-44 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-ISE-2008-44. 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 ISE. 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-2008-44 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Florence E. Harmon
Acting Secretary

¹² 17 CFR 200.30-3(a)(12).