

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-53390; File No. SR-ISE-2006-08)

February 28, 2006

Self-Regulatory Organizations; International Securities Exchange, Inc.; Order Granting Accelerated Approval of a Proposed Rule Change Establishing Fees for Historical Options Tick Market Data for Non-Members

On February 1, 2006, 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 non-member fees for historical options tick market data, described below. The ISE requested the Commission grant accelerated approval of the proposed rule change. The Commission did not immediately grant accelerated approval. Instead, the proposed rule change was published for comment in the Federal Register on February 9, 2006 for a 15-day comment period, which expired on February 24, 2006.³ The Commission received no comments on the proposal.

Historical options tick market data is Options Price Reporting Authority (“OPRA”) tick data, a complete file, tick-by-tick, of all quote and transaction data of all instruments disseminated by OPRA during a trading day. OPRA tick data includes data from all six options exchanges. On any given trading day, OPRA tick data is publicly available and may be stored.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 53211 (February 2, 2006), 71 FR 6801. The instant proposed rule change proposes to establish a fee for non-ISE members only. The Exchange also filed a separate proposed rule change, SR-ISE-2006-07, Securities Exchange Act Release No. 53212 (February 2, 2006), 71 FR 6803 (February 9, 2006), that established fees for ISE members. The proposed fees for both ISE members and non-ISE members are the same.

The OPRA tick data collected and stored by ISE is neither exclusive nor proprietary to the Exchange. The ISE captures the OPRA tick data and will make it available as an “end of day” file⁴ or as a “historical” file⁵ for ISE members and non-ISE members alike.⁶

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 the requirement of Section 6(b)(4)⁸ that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

The Commission finds good cause for approving this proposed rule change before the 30th day after publication of notice in the Federal Register. On February 1, 2006, the ISE amended its rules to give its members the opportunity to access historical options tick market data.⁹ The ISE asked the Commission to approve the instant proposed rule change on an accelerated basis so that the ISE could offer the same service to non-members (at the same price) as soon as possible. As mentioned above, the Commission received no comments on the ISE’s

⁴ An end of day file refers to OPRA tick data for a trading day that is distributed prior to the opening of the next trading day. An end of day file will be made available to subscribers as soon as practicable at the end of each trading day on an on-going basis pursuant to an annual subscription or through an ad-hoc request.

⁵ An end of day file that is distributed after the start of the next trading day is called a historical file. A historical file will be available to customers for a pre-determined date range by ad-hoc requests only.

⁶ See supra, at n.3.

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78f(b)(4).

⁹ See supra at n.3.

proposed rule change. The Commission believes that the proposed rule change raises no new issues or novel regulatory questions, and that non-members should have the ability to partake of this service without unnecessary delay. Accordingly, the Commission finds good cause pursuant to section 19(b)(2) of the Act,¹⁰ for approving the proposed rule change prior to the 30th day after publication in the Federal Register.

IT IS THEREFORE ORDERED, pursuant to section 19(b)(2) of the Act,¹¹ that the proposed rule change be, and hereby is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Nancy M. Morris
Secretary

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ Id.

¹² 17 CFR 200.30-3(a)(12).