

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-49627; File No. SR-ISE-2004-05)

April 28, 2004

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the International Securities Exchange, Inc., Relating to Customized Market Data Reports ("ISEMine")

On March 4, 2004, 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 establish fees in connection with the preparation of customized market data reports for both members and non-members. The Exchange maintains databases that contain information relating to option contracts traded on the Exchange. The Exchange is proposing to provide members and non-members with the ability to "mine" this data through the use of customized market data reports. The Exchange refers to this service as "ISEmine."

The proposed rule change was published for comment in the Federal Register on March 24, 2004.³ The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 49442 (March 17, 2004), 69 FR 13925.

securities exchange⁴ and, in particular, the requirements of Section 6 of the Act⁵ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(4) of the Act,⁶ in that it provides for the equitable allocation of reasonable dues, fees, and other charges among ISE members and issuers and other persons using its facilities. Additionally, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁷ in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating securities transactions, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act⁸, that the

⁴ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(4).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78s(b)(2).

proposed rule change (SR-ISE-2004-05) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland
Deputy Secretary

⁹ 17 CFR 200.30-3(a)(12).