

operative delay.<sup>14</sup> The Commission is exercising its authority to waive the five-day pre-filing notice requirement and believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative delay allows Amex to correct what it represents as an inadvertent omission, in an earlier filing, of Closed-End Funds from the class of issuers whose annual fees cannot be deferred, waived, or rebated. This correction will clarify that only stock issues may, in the discretion of the Board of Governors, be deferred, waived, or rebated. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>15</sup>

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 necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.<sup>16</sup>

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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](mailto:rule-comments@sec.gov). Please include File Number SR-Amex-2006-33 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-Amex-2006-33. 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 Section, 100 F Street, NE., Washington, DC 20549-1090. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. 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-Amex-2006-33 and should be submitted on or before June 1, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Nancy M. Morris,**  
Secretary.

[FR Doc. E6-7219 Filed 5-10-06; 8:45 am]

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53756; File No. SR-ISE-2005-56]

#### 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

May 3, 2006.

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"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> 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.<sup>3</sup> 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<sup>®</sup>, 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.<sup>4</sup>

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.<sup>5</sup>

The Exchange will offer this product to online 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

<sup>3</sup> See Securities Exchange Act Release No. 53532 (March 21, 2006), 71 FR 15501 ("Notice").

<sup>4</sup> [http://www.iseoptions.com/marketplace/statistics/sentiment\\_index.asp](http://www.iseoptions.com/marketplace/statistics/sentiment_index.asp).

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

<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>15</sup> For the purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>16</sup> For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change, as amended, under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on April 12, 2006, the date on which the Exchange submitted Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

<sup>17</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

subscription levels based on the size of their firm and the number of clients that subscribe to the service.<sup>6</sup>

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.<sup>7</sup> In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(4) of the Act,<sup>8</sup> 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.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>9</sup> 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.<sup>10</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. E6-7201 Filed 5-10-06; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Docket No. FAA-2005-23438]

#### Notice of Request for Public Comments on Interpretation of the On-Demand Flight Time and Rest Period Rules

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice, request for comments.

**SUMMARY:** The FAA has received several related requests for interpretation of the On-Demand Flight and Rest Rules, 14 CFR Sections 121.263(d) and 121.267(b), (d) and (e). The FAA has decided that it would be beneficial to request public

comments on the requesters' questions, before the FAA issues its responses. See Notice of Reinstatement of 1980 Public Comment Procedures for Requests for Interpretation of Flight Time, Rest and Duty Period Regulations (70 FR 74863, Dec. 16, 2005). Copies of the requests from members of the public can be found at the DOT public electronic docket, using the docket number FAA-2005-23438.

**DATES:** Comments must be received on or before July 10, 2006.

**ADDRESSES:** Address your comments to the docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number FAA-2005-23438 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also electronically submit comments through the Internet to <http://dms.dot.gov>. You may review the public docket containing comments concerning this document in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at <http://dms.dot.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Constance Subadan, Regulations Division, AGC-200, Office of the Chief Counsel, 800 Independence Avenue, SW., Washington, DC 20591; telephone 202-267-3073.

#### Background

The FAA has received several related requests for interpretation of sections 135.263(d) and 135.267(b), (d), and (e). The FAA has previously issued interpretations on some, but not all, of the questions. The Agency will take into consideration in developing its responses the public comments it receives. For example, in its response, the FAA intends to clarify two issues on which it has previously stated an opinion, namely: (1) Whether late arriving passengers or cargo may be considered an unforeseen circumstance or circumstance beyond the certificate holder's or crewmember's control under section 135.263(d); and (2) whether the rest period under section 135.267(d) must be timely received. The Agency will consider whether to recede from statements or suggestions in prior interpretations that late arriving

passengers or cargo are an unforeseen circumstance, because such statements or suggestions may not represent good safety policy. The Agency will also consider whether to recede from statements or suggestions that the implied 14-hour test period, because such statements or suggestions may not represent a valid interpretation of section 135.267(d).

#### Requesters' Questions

The requests for interpretation of the On Demand Flight Time and Rest Rules raised the questions set forth below. To put these questions in full context, respondents should look at the letters from the members of the public that are posted on the DOT public electronic docket.

*No. 1 (William Gruening): Scenario/Questions:* The crew receives a 10-hour rest period and is scheduled for a 14-hour duty day, starting at 0600, with the first flight at 0700. Total scheduled flight time for the day is 5 hours. They do not receive 10 consecutive hours of rest during the day. The last flight is scheduled to arrive at home base at 1930, and the crew has 30 minutes to complete [post flight] duties. They are scheduled to be off duty at 2000. The certificate holder wants to invoke section 135.263(d) ("circumstances beyond the control") for the last flight for any of the following reasons: (a) Passengers are caught in traffic, (b) there is a 1 hour ground hold for weather, (c) there is a 1 hour ATC hold in flight, (d) there is a 1 hour delay for unscheduled maintenance, or (e) it takes 1 hour longer to taxi out than expected. Because of any of the above circumstances, the crew will arrive 1 hour late and will not have 10 consecutive hours within the preceding 24 hours.

1. May the crew complete the flight or must they be on the ground in time to have 10 hours of rest within the preceding 24 hours, consistent with the interpretation of the similar provision in section 121.471?

2. If the crew may complete the flight, how must the records be documented for record inspections?

*No. 2 (Eagle's Wings Aviation Corp): Scenario/Question:* Three situations are presented: (1) The passengers or cargo arrive late and cause a crew to exceed the duty limit for a charter flight that was scheduled to arrive within duty time limits; (2) winds or weather more adverse than forecast cause the crew to exceed duty time limits; and (3) the passengers on a passenger charter flight request a change in itinerary or an additional stop and cause the crew to

<sup>6</sup> See Notice, *supra* at note 3.

<sup>7</sup> 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).

<sup>8</sup> 15 U.S.C. 78f(b)(4).

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 17 CFR 200.30-3(a)(12).