

# ICE STATEMENT REGARDING CFTC INITIATIVES

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ATLANTA, July 9/PRNewswire-FirstCall/ -- IntercontinentalExchange(R) (NYSE: ICE) today issued the following statement:

ICE welcomes the opportunity to participate in the industry hearings recently announced by the U.S. Commodity Futures Trading Commission (CFTC). Since its formation in 2000, ICE has a demonstrated track record of working closely with regulators and industry participants to operate efficient, transparent markets, while achieving significant growth by virtually any measure.

- ICE is a global, diversified exchange operator with multiple regulated exchanges and clearing houses in the U.S., Europe and Canada. ICE has purposefully built its business around serving the needs of commercial market participants in energy, agriculture, credit and other key markets.
- In response to volatile commodity prices, numerous studies were conducted by government and independent agencies worldwide during 2008 and into 2009. These studies largely concluded that supply and demand remain the fundamental drivers of commodity prices rather than excess speculation.
- In 2008, with the passage of the Farm Bill in Congress, ICE's over-the-counter (OTC) energy markets became subject to increased regulation by the CFTC for key contracts, such as the Henry Hub natural gas swap, under what is known as the Significant Price Discovery Contract (SPDC) regime.
- Also in 2008, the CFTC amended ICE Futures Europe's no action letter to require ICE Futures Europe to adopt U.S.-style reporting, position limits and position accountability levels for its energy contracts that reference the settlement price of a U.S. designated contract market. Since the fall of 2008, ICE's U.S.-linked energy futures contracts have been subject to regulation by the CFTC under an amended no action letter, and today these contracts are subject to the same rules and regulations that apply to the U.S. energy futures exchange, NYMEX. For the specific provisions that are now in effect, please see ICE's press release dated June 17, 2008.
- ICE has expressed concern to the CFTC about the process in place today for establishing position standards in the U.S. energy markets. We look forward to participating in the Commission's hearings and believe they will provide a venue for the open, transparent dialogue necessary to consider market impacts of the needed changes to the existing position management regime.
- Current regulation by the CFTC mandates that ICE adopt the position and accountability limits that its competitor, NYMEX, is presently responsible for establishing. ICE is provided no access to the information needed to judge the suitability or size of these limits, nor does it have access to the methodology or determining factors that NYMEX used in deciding to grant over 115 hedge exemptions since 2006.
- Despite the substantial increase in the size of the energy markets, including growth in contract volume, participants and physical production, position limits in U.S. energy markets have remained unchanged for years. Therefore, it appears that hedge exemptions have been increasingly granted to meet the needs of market participants in today's large, global markets.
- Today we are seeing that position and accountability limits can inadvertently result in the transfer of cleared, transparent positions back into bilateral markets where neither limits nor reporting exist. A shift backward to opaque, bilateral markets decreases market transparency and increases counterparty risk, both of which run counter to proposals by the Treasury to bring bilateral positions into clearing houses.
- The hearing process will allow the industry to examine how needed

modifications to the current position management regime might be better structured, including how changes might affect volatility, prices, market concentration and the prevention of settlement price manipulation.

-- The CFTC specifically noted in its recent statement a desire to focus on the role of index funds and managers of Exchange-Traded Funds (ETFs). Index funds and ETFs in ICE's U.S. energy markets account for an immaterial amount of ICE's revenue. Index funds typically execute their trades in the OTC broker markets rather than in ICE's markets -- using ICE only to clear their bilateral positions -- and thus they pay limited fees to the exchange. Because trading activity generated by index funds and ETFs generally is not part of the on-exchange price discovery process, they typically do not provide volume interaction with other participants in ICE's electronic execution markets.

As demonstrated for nearly a decade, ICE remains focused on working with regulators and market participants globally to develop solutions that maximize and enhance market efficiencies, while minimizing unintended consequences.

#### *About IntercontinentalExchange*

IntercontinentalExchange(R) (NYSE: ICE) operates leading regulated exchanges, trading platforms and clearing houses serving the global markets for agricultural, credit, currency, emissions, energy and equity index markets. ICE Futures Europe(R) trades half of the world's crude and refined oil futures. ICE Futures U.S.(R) and ICE Futures Canada(R) list agricultural, currency and Russell Index markets. ICE offers trade execution and processing for the credit derivatives markets through Creditex and clearing through ICE Trust(TM). A component of the Russell 1000(R) and S&P 500 indexes, ICE(R) serves customers in more than 50 countries and is headquartered in Atlanta, with offices in New York, London, Chicago, Winnipeg, Calgary, Houston and Singapore. [www.theice.com](http://www.theice.com)

*Safe Harbor Statement under the Private Securities Litigation Reform Act of 1995* -- Statements in this press release regarding IntercontinentalExchange's business that are not historical facts are "forward-looking statements" that involve risks and uncertainties. For a discussion of additional risks and uncertainties, which could cause actual results to differ from those contained in the forward-looking statements, see ICE's Securities and Exchange Commission (SEC) filings, including, but not limited to, the risk factors in ICE's Annual Report on Form 10-K for the year ended December 31, 2008, as filed with the SEC on February 11, 2009.

SOURCE IntercontinentalExchange