ICE REITERATES VIEW THAT POSITION MANAGEMENT REGIME SHOULD BE SET BY THE CFTC; CME WHITE PAPER RECOMMENDATIONS REDUCE CUSTOMER CHOICE AND COMPETITION

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ATLANTA, Sept. 17/PRNewswire-FirstCall/ -- IntercontinentalExchange((R)) (NYSE: ICE), a leading global operator of regulated futures exchanges, clearing houses and over-the-counter (OTC) markets, issued the following statement regarding position limits and hedge exemptions in its energy markets in relation to the CME Group (CME) white paper, "Excessive Speculation and Position Limits in Energy Derivatives Markets," published on September 16, 2009. Unfortunately, it appears that several elements of CME's white paper proposal are flawed and potentially anti-competitive.

(Logo: ***http://www.newscom.com/cgi-bin/prnh/20090727/CL51999LOGO***)

ICE firmly believes in the proper regulation of markets to ensure that market users and the public have confidence in the commodity price formation process. While ICE continues to question the causal link between speculative activity in futures markets and energy price levels, ICE nevertheless recognizes the importance of this overarching goal. The Commodity Futures Trading Commission (CFTC) has held hearings with a broad cross-section of participants to inform the discussion regarding appropriate position limits and the administration of hedge exemptions. In light of the recent CFTC hearings, and in order to build market confidence, preserve customer choice and competition, ICE makes the recommendations listed below.

- A new position limit or accountability level regime established and administered by the CFTC, with the CFTC having sole authority to grant exemptions, may offer greater confidence in market integrity. The CFTC has a regime in place for enumerated agricultural contracts that has proven to be effective. The CFTC has the experience, systems, and increasingly, the budget to administer this type of regime more broadly. Only the CFTC can and will have broad and regular access to all position data regardless of venue, and is therefore uniquely able to determine compliance with limits and appropriateness of exemptions.
- ICE believes any new position limit and accountability level regime should be aggregate, meaning market-wide, in nature. Market-wide limits would govern the sum total of all positions reported to the CFTC by any Designated Contract Market, Exempt Commercial Market for Significant Price Discovery Contracts, Foreign Boards of Trade for linked contracts, or major OTC market participant. The CFTC has already successfully implemented the most challenging aspect of such a system: collection, aggregation and reporting of position data from these sources.
- In addition, ICE believes that the imposition of position limits and accountability levels should promote competition and customer choice by being market and exchange agnostic. Setting position limits in the manner suggested by CME, as a percentage of an exchange's open interest, would be anti-competitive and contrary to the CFTC's statutory mandate to "promote competition among exchanges and seek to regulate the futures markets by the least anticompetitive means available." Imposing smaller limits for newer exchanges by applying a "percentage of open interest" test for each individual exchange would retard competition by mathematically precluding new entrants from building liquidity in their markets. We urge the CFTC to take this critical issue into account and to implement market and exchange-agnostic rules that promote, not destroy, competition.
- Beyond these critical points concerning the proper administrator of position limits and whether they should be applied market-wide, ICE continues to share its thoughts directly with the CFTC regarding other elements of CME's white paper, including but not limited to, key distinctions between physical versus cash-settled contracts and enhancements to the existing accountability level regime.

ICE has a long and demonstrated track record of working closely with regulators in the U.S. and abroad to ensure transparency and robust market regulation, and we look forward to continuing to engage with members of the Commission, CFTC staff and market participants on these important issues.

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)) hosts trade in 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 ICE Link((TM)), respectively, and CDS clearing through ICE Trust(TM) and ICE Clear Europe(R). 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***

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SOURCE IntercontinentalExchange