



February 14, 2014

Ms. Melissa Jurgens
Secretary
Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

***Re: Comments on Concept Release on Risk Controls and System Safeguards
for Automated Trading Environments***

Dear Ms. Jurgens:

IntercontinentalExchange Group, Inc. (ICE) welcomes the opportunity to comment on the Commodity Futures Trading Commission's (Commission) Concept Release on Risk Controls and System Safeguards for Automated Trading Environments (Concept Release). As background, ICE was established in 2000 as an over-the-counter (OTC) marketplace with the goal of providing transparency and a level playing field for the previously opaque, fragmented energy market. Since that time, ICE has grown significantly through organic growth fostered by product, technology and clearing innovation, and by acquisition of futures and equities exchanges that have broadened its product offerings and risk management services.

At the outset, ICE would like to commend the Commission on its work on the Concept Release. The Commission has been very proactive in discussing automated trading and market protections with the industry, including ICE. In addition, the Commission's Technology Advisory Committee has thoroughly examined and discussed many of the issues in Concept Release over the past few years. ICE's comment is on two aspects of the concept release: (1) exchange risk controls and (2) defining and regulating high frequency traders.¹

Executive Summary

- In addition to complying with the Commodity Exchange Act and Commission rules, exchanges have a competitive reason to implement risk controls.
- The Commission should not "federalize" existing exchange risk controls and practices. Exchanges are better able to implement and update risk controls on a market-by-market basis than through a Commission rulemaking.

¹ Our comment follows the recommendations in Commissioner O'Malia's Statement of Concurrence to the Concept Release.



- Furthermore, prescribed Commission rules on risk controls could stifle exchange innovation in this area.
- The Commission should not attempt to define high frequency trading or separately regulate high frequency traders from other automated trading systems.

Exchange Risk Controls

ICE is unique in that it was founded as an electronic market and has grown through offering electronic trading to predominately voice brokered or floor traded markets. As such, ICE's success depended on its technology and its ability to create markets that operate as a level playing field for all market participants. For example, ICE treats every order and trade equally regardless of connection method or participant type. ICE's architecture, software design and matching engine logic prohibit and preclude preferential order or trade treatment to any participant or group of participants. In addition, our complete order book and trade information is disseminated to all participants from the exchange simultaneously using a common software, hardware and network infrastructure.

In designing an electronic market, ICE has paid special attention to designing exchange controls that protect orderly markets while offering participants flexibility to trade. ICE has been at the forefront in introducing market protections and risk controls such as self-matching preventions, interval price limits and messaging efficiency policies.² Many of ICE's risk controls are built into the ICE trading system itself. Offering market protections is central to ICE's exchange compliance with the Commission's regulations on Designated Contract Markets (DCM) and Swap Execution Facilities as well as global regulators' exchange and clearing regulations.³ More importantly, ICE sees offering market protections as a competitive advantage to other exchanges. ICE is not unique in this regard; many of the protections discussed in the Concept Release were developed by exchanges before any regulatory mandate.⁴ For example, ICE's Self Trade Prevention Functionality (STPF) was built through our OTC energy platform without any regulatory impetus. Over time, and after close consultation with customers, ICE made its STPF mandatory for proprietary traders with direct market access.⁵ Again, ICE made this change without any regulatory requirement, but as a differentiator to other exchanges.

² See, http://www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/tacpresentation032912_ice.pdf (ICE presentation to the Technology Advisory Committee, March 29, 2012)

³ ICE has exchanges and clearing houses in the United States, Europe and Canada. In addition, ICE recently announced an agreement to acquire the Singapore Mercantile Exchange.

⁴ For example, order size and credit controls were built into early (pre-1998) exchange electronic platforms.

⁵ https://www.theice.com/publicdocs/futures_us/exchange_notices/ExNot091113STPFFinal.pdf



Therefore, in commenting on the Concept Release, ICE stresses the importance of allowing exchanges the flexibility to design exchange risk controls. DCMs and SEFs are highly regulated by the Commission. DCM Core Principle 4 requires exchanges “to have the capacity and responsibility to prevent manipulation, price distortion, and disruptions of the delivery or cash-settlement process...”⁶ While the Commodity Exchange Act and DCM and SEF Core Principles require exchanges to have risk controls, they do not mandate particular risk controls but instead give exchanges flexibility to comply with the these regulations. This is important because the U.S. derivatives markets are complex. A certain risk control mechanism may work well for one derivatives market but not for another. Even when exchanges list economically equivalent products, the participants in each market may vary considerably. In designing risk controls, exchanges can be granular in regards to type and composition of the market. This is a distinct advantage over any broad rulemaking mandating particular risk controls.

Answering Commissioner O’Malia’s question of whether the Commission should “federalize any current industry practices/standards?”--ICE’s answer is that the Commission this would likely stifle exchange innovation in this area. Currently, exchanges are able to make changes quickly to their risk controls. For example, ICE was able to make several small changes to its STPF process as it rolled the functionality out to customers. Conversely, the Commission is constrained by its rulemaking process and may only be able to update its rules once a year at most. Added to this, the Commission’s approach would be across the entire market, in a one size fits all manner. Thus, as thoughtful and measured as the Commission’s approach has been on this issue, any rulemaking cannot be as tailored to a specific issue as an exchange implemented risk control can.

Defining and Regulating High Frequency Traders

Like many other market participants, ICE does not define high frequency trading. Instead, ICE uses a broader term, Automated Trading Systems (ATS), for any participant that (1) has direct access and (2) submits orders automatically. ATS captures a wide range of market participants—from those who use simple spreadsheets to submit automated trades to the computerized “black box” traders. ATS serve a critical role in ICE markets by providing key liquidity, making markets and creating tighter bids and offers for market participants. ICE believes that ATS have made the derivatives markets more transparent and competitive. Given the importance of ATS to the derivatives markets, ICE recommends a careful approach to regulating high frequency traders or ATS. Further, the Commission should take into consideration that because of

⁶ Section 5(d)(4) of the Commodity Exchange Act. SEF Core Principle 4 closely follows DCM Core Principle 4. *See*, Section 5h(f)(4) of the Commodity Exchange Act. *See also*, DCM Core Principle 20 and SEF Core Principle 14 (requiring exchanges to have system safeguards in place).



Dodd-Frank, the markets are evolving considerably to become more electronic. ATS will be central to fulfilling the Dodd-Frank goal of electronic trading of derivatives.

Defining high frequency trading could lead to an arbitrary definition that is either over or under inclusive. In addition, many recent cases that illustrate the need for risk controls have involved a single company or human trading without any automation.⁷ Therefore, ICE believes that the Commission should not adopt a definition for high frequency trading or prescribe rules that single out high frequency trading.

Conclusion

In summary, ICE supports the efforts of the Commission to examine automated trading and risk controls. ICE believes that existing Commission rules allow exchanges to pursue a flexible to approach to managing the risks from automated trading. Further, ICE cautions against the Commission issuing prescriptive rules that would stifle exchange innovation in designing or implementing risk controls. Finally, ICE does not believe that the Commission should define or specifically regulate high frequency trading.

Thank you for the opportunity to comment. If you have any question, please contact the undersigned below at 770.916.7832.

Sincerely,

A handwritten signature in black ink that reads "Trabue Bland". The signature is written in a cursive, flowing style.

R. Trabue Bland

IntercontinentalExchange, Inc.

⁷ See, e.g. "Wheat trader for MF Global loses \$141.5 million in unauthorized trading"
<http://www.nytimes.com/2008/02/29/business/worldbusiness/29iht-29trader.10564592.html>