Atlanta Calgary Chicago Houston London New York Singapore

TESTIMONY OF CHARLES A. VICE
PRESIDENT AND CHIEF OPERATING OFFICER,
INTERCONTINENTALEXCHANGE, INC.
BEFORE THE JOINT ADVISORY COMMITTEE OF THE COMMODITY FUTURES TRADING COMMISSION AND
THE SECURITIES AND EXCHANGE COMMISSION

June 22, 2010

Chairman Gensler, Chairman Schapiro, CFTC and SEC Commissioners, and Joint Advisory Committee members, I am Chuck Vice, President and Chief Operating Officer of the IntercontinentalExchange, Inc., or "ICE." I appreciate the opportunity to appear before you today to discuss recommendations following the market events of May 6, 2010. As a global operator of trading venues and clearinghouses, ICE firmly believes in proper regulation to ensure that users, as well as the broader public, have confidence in our markets.

Background

ICE was established in 2000 as an electronic over-the-counter (OTC) market. Since that time, ICE has grown significantly fostered by our product, technology and trading innovations, as well as by acquisition of other regulated marketplaces.

Since the launch of our electronic OTC energy marketplace in 2000, ICE has acquired and now operates three regulated futures exchanges, ICE Futures Europe, ICE Futures US, and ICE Futures Canada through three separate subsidiaries, each with its own governance and regulatory infrastructure. In addition to its execution venues, ICE also owns and operates five derivatives clearing houses across the U.S., Canada and Europe, serving both regulated futures exchanges and over-the-counter clearing businesses globally.

ICE has an established track record of working with market participants to introduce transparency and risk intermediation into formerly opaque markets. We have also worked closely with regulators to improve market supervision and access to market information. With this background, ICE comes before you today to testify on the May 6 price drop in equity markets and to offer our recommendations for preventing such events in the future.

<u>Trading on ICE Futures U.S. Russell Indices</u>

ICE's subsidiary, ICE Futures U.S. ("the Exchange"), offers futures and options contracts on a variety of the Russell 1000 and Russell 2000 equity indices. The Russell

IntercontinentalExchange
2100 RiverEdge Parkway
Suite 500
Atlanta, GA 30328
phone 770 857 4700
fax 770 951 1307
online www.theice.com

2000 Index is by far the most common benchmark for small-cap mutual funds and the Russell 2000 futures contract is the most actively traded equity derivative listed on our Exchange. On May 6, 2010 at 2:39 PM ET, prices for the front-month Russell 2000 contract began to drop significantly. By 2:45 PM ET, the price had dropped to 629.20. The price drop in the Russell 2000 contract coincided with a simultaneous drop in the broader equity markets. By 2:47 PM ET, the price had rebounded to 650.50.

During this drop in equity markets, trading on ICE Futures U.S., while heavier than usual, functioned normally. There were no "fat finger" errors or unrepresentative trades reported by traders or detected by ICE Futures U.S.

ICE Futures U.S. Market Protections

The Exchange has pre-trade risk systems in place on the Russell contracts that help ensure fair and orderly markets. Foremost of these controls is the price reasonability limit set by the Exchange, that rejects bids above and offers below a reasonable range around an anchor price (most often the last traded price, but in any case the best available representative price). In the context of the May 6 market drop, the reasonability limit would have stopped a trader from entering a market sell order below the reasonability range thus preventing the order from crossing with a below-market resting bid.

In addition to the price reasonability limit, the Exchange also sets a volume reasonability limit that prevents a trader from entering an order for a quantity greater than a certain volume level. The volume reasonability level helps prevent a "fat finger" trade for an erroneously large quantity. Both the price and volume reasonability limit checks are built into the ICE trading system. In addition, users can opt to have a pre-confirmation message sent to them before execution to make sure that the trader wants to undertake the transaction.

ICE Futures U.S. also has a No Cancellation Range ("NCR") or "trade bust" policy for all of its products. Similar to the reasonability limits, the NCR is set at a certain range from the anchor price, but with a narrower band, and for purposes of providing market certainty with regard to the outer prices between which no trade will be cancelled. On May 6, none of the executed transactions were outside of the NCR and thus none were cancelled.

A final form of protection provided by the Exchange in the Russell markets is the daily price limit. The daily price limit is codified in the Exchange rulebook and set at price declines of 10% (Level 1 Limit), 20% (Level 2) and 30% (Level 3 or the maximum limit). When the price declines to the Level 1 limit, trading is halted in the futures and options market for a brief period to allow market participants time to enter orders and prepare to resume trading. After a Level 1 limit has been breached and trading resumes, the Level 2 limit goes into effect with a second temporary halt if that limit is breached. No trading may take place at prices below the Level 3 limit. These levels are comparable to those established by the New York Stock Exchange and have been in place since the 1987 crash. In addition, whenever all trading is halted on the NYSE, the Exchange likewise halts trading in the Russell futures and options contracts.

Recommendations

ICE's market protections benefited our Russell 2000 contract and customers on May 6. The presence of these safety features enabled our market to trade in an orderly fashion without error trades and in a manner that allowed for continuous price discovery. We make the following recommendations for ensuring the orderly operation of all securities and derivatives markets:

1. All market and stop loss orders should be subject to some type of price banding or reasonability limits so that such orders cannot be executed outside of a reasonable range around fair value.

2. With regard to sudden severe price drops potentially due to panic or uninformed selling or technical problems experienced by electronic traders, high frequency or otherwise, ICE suggests the following circuit breaker design:
    a. Circuit breakers SHOULD be triggered when a market is down a certain percentage in a relatively short amount of time (e.g., 5% over 10 minutes) and NOT when a market is down a certain percentage from some less recent and less relevant price level (e.g., last quarter's or yesterday's closing price).
    b. Circuit breakers should NOT be hard price limits in effect for an extended timeframe such as the rest of the trading day. Rather, a temporary price floor should be in effect for a relatively short period, of anywhere from 1 to 10 minutes, during which all traders, electronic and otherwise, can be expected to have rationally processed all relevant information. Resumption of normal market conditions and the price discovery process as soon as possible is critical to allow market participants to continue hedging or covering positions.
    c. When a circuit breaker is tripped, the market should NOT be closed. Instead, the market should remain open throughout, but temporarily reject offers below the circuit breaker price. This approach allows the market to continue trading at or even rally above the circuit breaker price if indeed a panic or technical problem induced the drop; and, at a minimum, it gives the bid book time to rebuild such that trading is more orderly when the temporary price floor is removed.

3. All exchanges should be held to a high standard of documentation and communication of any circuit breaker methodology both prior to and during any market disruption, including communication with other exchanges. These measures should be better communicated to market participants to allow for more certainty following a market event like the one that occurred on May 6. While exchanges may choose to coordinate on circuit breakers, each exchange should implement these controls independently.

Conclusion

ICE has always been and continues to be a strong proponent of open and competitive markets, and of appropriate regulatory oversight of those markets. As an operator of global derivatives markets, and as a publicly held company, ICE advocates a regulatory framework that ensures the utmost confidence in its markets. To that end, we have continuously invested in and expanded our own regulatory infrastructure, while working closely with regulatory bodies in the U.S. and abroad to achieve the aims of market security, transparency and regulatory certainty.

Thank you for the opportunity to share our views with you. I would be happy to answer any questions you may have.