September 20, 2013

Secretariat of the Basel Committee on Banking Supervision
Bank for International Settlements
CH-4002 Basel
Switzerland
baselcommittee@bis.org

Re: **Consultative Document on the Revised Basel III Leverage Ratio Framework**

Dear Sirs/Madams:

The IntercontinentalExchange, Inc. ("ICE") appreciates this opportunity to comment on the Consultative Document, Revised Basel III leverage ratio framework and disclosure requirements ("Proposed Framework"), issued by the Basel Committee on Banking Supervision ("the Committee").[1] ICE operates five central counterparties ("CCPs"): ICE Clear U.S., a Derivatives Clearing Organization ("DCO") under the Commodity Exchange Act ("Act"), located in New York and serving the markets of ICE Futures U.S.; ICE Clear Europe, a Recognized Clearing House ("RCH") located in London that serves ICE Futures Europe, ICE's OTC energy markets and also operates as ICE's European CDS clearinghouse; ICE Clear Canada, a recognized clearing house located in Winnipeg, Manitoba that serves the markets of ICE Futures Canada; The Clearing Corporation, a U.S.-based DCO; and ICE Clear Credit, a registered Clearing Agency under the Exchange Act and a U.S.-based DCO. ICE is known for its ability to introduce clearing into previously uncleared markets such as credit default swaps. Given this experience and as an operator of CCPs globally, ICE wishes to comment on the Proposed Framework.

Executive Summary:

- The Proposed Framework imposes leverage capital charges on client cleared derivatives transactions in similar method to how it places capital charges on bilateral transactions.
- The impact of the leverage charges on CCP clearing members is significant enough to discourage client clearing, in opposition to global financial reform efforts and the G20 commitments.

[1] Basel Committee on Banking Supervision, *Consultative Document: Revised Basel III leverage ratio framework and disclosure requirements* (June 2013).

- The Proposed Framework should exclude client cleared derivatives from leveraged capital charges.

Background

In 2009, in response to a global financial crisis, the G20 nations met in Pittsburgh to agree on reforming the global financial markets. This agreement led to major financial reforms in the G20 nations. Central to the financial reform efforts was the encouragement of centralized clearing of OTC derivatives markets.[2] Centralized clearing is of utmost importance to the proper functioning of the financial system. ICE believes that increased transparency, risk management and capital sufficiency, coupled with legal and regulatory certainty, are central to reform and to restoring confidence to these vital markets. The objective of our comment is whether Proposed Framework encourages centralized clearing and thus, the goals of the G20.

Proposed Framework's Treatment of Cleared Derivatives Transactions Will Serve as a Disincentive to CCP Clearing

The treatment of derivatives in the Proposed Framework is intended to address (1) the exposure arising from the underlying of the contract, (2) the counterparty credit risk exposure and (3) collateral re-hypothecation and re-use by applying the current exposure method ("CEM") to measure derivative exposures.[3] Through the CEM, the Proposed Framework imposes leverage capital charges on client cleared derivatives transactions.[4]

The CEM is designed for bilateral derivatives transactions, therefore, the Proposed Framework does not account that CCP client clearing *reduces exposure* through initial and variation margining.[5] Because the CEM fails to recognize the exposure reducing effects of clearing, a client cleared derivative is subject to double counting under the CEM (both the client and clearing member transactions are treated as bilateral transactions). In sum, the application of the CEM to client cleared derivatives could double capital charges to CCP clearing firms. Perversely, this means that client cleared derivatives are subject to *higher* capital charges than bilateral derivative transactions. As the centralized clearing of derivatives is a central G20 financial reform goal, the Proposed

[2] "All Standardized OTC derivatives contracts should be traded on exchanges or electronic trading platforms, where appropriate, and cleared through central counterparties…" Leader's communiqué, Pittsburgh G20 summit (September 25, 2009).
[3] *Proposed Framework* at ¶ 22- 26.
[4] For the purposes of this letter, a client cleared derivative transaction is a transaction cleared at CCP by its clearing members on an agency basis.
[5] *See, e.g.* Basel Committee on Banking Supervision, *The non-internal model method for capitalising counterparty credit risk exposures* (June 2013, rev. 25 July 2013) ("NIMM Consultative Document") at ¶ 6.

Framework's application of CEM to client cleared derivatives is clearly in opposition to global financial reform efforts.

Recommendation

ICE strongly advises that any final version of the Proposed Framework not apply the CEM to client cleared derivatives given that the proposed leverage capital charges penalize centralized clearing. In the alternative, ICE suggests that the Committee use a methodology that recognizes netting, initial margin and variation margin as exposure reducing. In that vein, the Committee's recently released NIMM approach could be an appropriate method to calculate exposure.

Conclusion

The Proposed Framework imposes leverage capital charges on client cleared derivatives transactions that will likely discourage client clearing. In order to uphold the G20 commitments to central clearing of derivatives, the Committee should exclude client cleared derivatives from any leverage capital charges or adopt alternative exposure calculations. If you have any questions or comments or require further information regarding this comment, please do not hesitate to contact the undersigned at trabue.bland@theice.com.

Yours truly,

Trabue Bland

R. Trabue Bland
IntercontinentalExchange, Inc.