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INTERCONTINENTALEXCHANGE, INC.
BEFORE THE SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

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Mr. Chairman, Senator Coleman, Subcommittee Members and Staff Members, my name is Jeff Sprecher and I am the Chairman and Chief Executive Officer of IntercontinentalExchange, Inc., or "ICE." We very much appreciate the opportunity to appear before you today to share with you our views on the regulation of the natural gas trading markets and the recent report of the Permanent Subcommittee on Investigations regarding the collapse of Amaranth and related events in the markets. ICE was pleased to cooperate with the Subcommittee and Staff in providing the voluminous trading data and other market information that the Staff requested in preparing the Report, and we commend the Subcommittee and Staff for the thoroughness and diligence they exhibited in the Report's preparation. It is our hope that the Report, together with the views of the various persons who have been invited to testify at these Hearings, will serve to enhance the integrity of the energy markets and assist Congress in better understanding how these markets serve the interests of the broader marketplace.

ICE operates a leading global commodity marketplace, comprising both futures and over-the-counter ("OTC") markets, across a variety of product classes, including agricultural and energy commodities, foreign exchange and equity indexes. ICE owns and operates two regulated futures exchanges -- ICE Futures, a London-based energy futures exchange overseen by the U.K. Financial Services Authority, and the Board of Trade of the City of New York, or "NYBOT," an agricultural commodity and financial futures exchange regulated by the Commodity Futures Trading Commission ("CFTC"). ICE's electronic marketplace for OTC energy contracts serves customers in Asia, Europe and the U.S. and is operated under the Commodity Exchange Act ("CEA") as a category of marketplace known as an "exempt commercial market," or ECM. As an ECM, these markets are subject to the jurisdiction of the CFTC and to regulations of the CFTC imposing recordkeeping, reporting and other requirements. In addition, and as I will discuss later, ICE has established a daily position reporting program to the CFTC in its cleared natural gas markets that we continue to enhance and support. ICE has always been and continues to be a strong proponent of open and competitive markets in energy commodities and related derivatives, and of regulatory oversight of those markets. As an operator of global futures and OTC markets and as a publicly-held company, we strive to ensure the utmost confidence in the integrity our markets and in the soundness of our business model. To that end, we have continuously worked with the CFTC and other regulatory agencies in the U.S. and abroad in order to ensure that they have access to all

relevant information available to ICE regarding trading activity on our markets and we will continue to work with all relevant agencies in the future.

I want to take this opportunity to provide you with important background on the structure, operation and regulatory status of ICE and to share with you our thoughts on the regulation of the natural gas markets and the Permanent Subcommittee Report. I also want to clarify a number of misunderstandings and inaccuracies in the Report, which I will discuss in more detail later in my testimony. First, ICE does not operate -- and has never operated – pursuant to an "Enron Loophole" under the CEA. Enron Online, the electronic marketplace operated by Enron pursuant to a separate provision of the CEA that has nothing whatsoever to do with the operations of ICE. That provision was available to Enron because Enron Online was a “one-to-many” marketplace in which Enron was both a market participant and the market – parties traded with a single counterparty, Enron. In stark contrast, ICE offers a transparent “many to many” electronic marketplace, where buyers and sellers of OTC energy contracts can transact in a fair and efficient marketplace, where no distinction is made between one market participant and another, and where the best executable price is available to any participant in the market, no matter how large or small. It is simply erroneous and misleading to use the label “Enron Loophole” to characterize ICE as somehow being connected to the Enron debacle.

Second, there are a number of fundamental distinctions that need to be drawn between the OTC markets in general and ICE's market in particular, on the one hand, and the futures markets, on the other hand, including the distinction between ICE's cash-settled natural gas swaps and the physically settled natural gas futures contract traded on the New York Mercantile Exchange ("NYMEX"). An understanding of these distinctions is essential to any analysis of potential regulatory changes, particular the need for any position limits, which the CFTC itself has said are not necessary in the context of cash-settled contracts. Indeed, while the Report criticizes the absence of position limits on ICE natural gas swaps, it completely ignores the fact that NYMEX's cash-settled natural gas swap -- which is virtually identical to the ICE contract and which was also traded by Amaranth -- is also not subject to position limits. If there is to be a "level playing field," it should be between comparable contracts. Third, ICE is not an "unregulated” or “dark” market. As I will explain, while ICE is not required to register as a "designated contract market," or "DCM," it is subject to the oversight of the CFTC and to CFTC regulatory requirements, including reporting requirements. Fourth, under current law, the CFTC and NYMEX have (and had at the time of Amaranth’s trading) the legal authority and ability to obtain any available information regarding trading by market participants on ICE, and as a result no additional legislation or regulation is needed to fill this perceived "gap" in the system. Finally, the ability of Amaranth to trade on ICE in no way "caused" its collapse, any more than its ability to trade on NYMEX did so.

ICE strongly supports several of the recommendations of the Permanent Subcommittee Report, particularly the proposed increase in the CFTC's budget and the enhancement of its access to trading information. We also support the advancement of regulatory certainty by eliminating the "Enron Loophole" although, as pointed out above,

that provision has nothing to do with ICE. However, we do not believe that a complete overhaul of the current regulatory structure is either warranted or advisable. Moreover, any legislative or regulatory changes that are made need to reflect the nature of ICE and its markets and the significant differences between ICE and the many other venues for OTC trading that exist today.

ICE Operates its Over-the-Counter Platform as an ECM

Broadly, because OTC markets tend to be global in nature, most OTC markets are now conducted electronically across asset classes, including OTC markets for U.S interest rate instruments, foreign exchange and debt securities. ICE responded to the transparency and speed enjoyed in other OTC markets by establishing its many-to-many electronic marketplace for trading physical energy commodities and financially-settled over-the-counter derivatives, primarily swaps, on energy commodities. ICE in effect performs the same function as a "voice broker" in the OTC market, but does so through an electronic platform that provides full market transparency to market participants, timely market information, greater speed of trade execution, recordkeeping efficiency and a more reliable and complete audit trail with respect to orders entered, and transactions executed, on our platform than exists with respect to traditional, non-electronic OTC venues. The introduction and development of ICE's platform have promoted competition and innovation in the energy derivatives market, to the benefit of all market participants and consumers generally. The reliability of ICE's markets has also resulted in an increasing preference for electronic trading in these markets. Participants on ICE enter bids and offers electronically and are matched in accordance with an algorithm that executes transactions on the basis of time and price priority. Participants executing a transaction on our platform may settle the transaction in one of two ways – on a bilateral basis, settling the transaction directly between the two parties, or on a cleared basis through LCH.Clearnet using the services of a futures commission merchant that is a member of LCH.Clearnet. In addition to providing the clearing house with daily settlement prices, ICE is also responsible for maintaining data connectivity to the clearing house.

It is important to note that there are substantial differences between ICE's OTC market, other portions of the OTC market, and the NYMEX futures market, and that these differences necessarily inform and guide the appropriate level of oversight and regulation of our markets. First, ICE is only one of many global venues on which market participants can execute OTC trades. A significant portion of OTC trading in natural gas is executed through voice brokers or direct bilateral negotiation between market counterparties. Of the available forums, only ICE (and any other similarly-situated ECMs) is subject to CFTC jurisdiction and the CFTC's regulations, or to limitations on the nature of its participants. ICE also provides far greater transparency, efficiency and data reliability for the benefit of market participants and regulators alike than voice brokers or other OTC market mechanisms. Second, participants in the futures markets must either become members of the relevant exchange or trade through a futures commission merchant that is a member. In contrast, ICE's OTC market, by law, is a "principals only" market in which participants must have trades executed in their own

names on the system, providing greater transparency with respect to trader-level transaction data due to the absence of a "middle man." Third, the OTC market offers a substantially wider range of products than the futures markets, including, for example, hundreds of derivatives contracts on natural gas and pricing against a large number of delivery points, of which there are approximately 100 in North America.

Fourth, ICE's natural gas swap contract is a financially-settled contract requiring one party to pay to the other a cash amount determined by reference to settlement prices in the NYMEX natural gas futures contract. The natural gas contracts traded on ICE do not, and cannot, result in the physical delivery or transfer of natural gas. Our natural gas contract constitutes an important commercial hedging vehicle and has served as an important complement to and a hedge for the NYMEX natural gas futures contract. However, our contract cannot affect physical delivery in the market and it therefore ultimately has limited ability to drive the pricing of natural gas, particularly as the relevant futures contract approaches delivery. An understanding of the differences between the NYMEX and ICE markets and contracts is critical to any determination of the appropriate regulation of these markets, as I will explain more fully later.

ICE operates its OTC platform as an "exempt commercial market," or "ECM," under the CEA. The ECM category was adopted as part of the Commodity Futures Modernization Act of 2000 ("CFMA"). The creation of the ECM category reflected Congress's recognition that "electronic voice brokers," such as ICE, occupy a middle ground between completely unregulated OTC brokers and market participants and fully regulated exchanges. Congress therefore sought to strike a balance between providing for oversight and regulation of these electronic markets, due to the more extensive participation in their markets by commercial and institutional entities, while still allowing them to function as OTC markets, which hold a vital place in commodity market structure, rather than as futures markets, which would alter their role as a hedging mechanism. The ECM category accomplished this objective. Pursuant to the CFMA, an electronic market can operate as an ECM if it limits its participants to "eligible commercial entities," or "ECEs." Transactions and participants on ECMs are fully subject to the antifraud and antimanipulation provisions of the CEA and the CFTC has jurisdiction over such transactions and participants.

As an ECM, ICE is itself subject to a certain level of regulation by the CFTC. In particular, ICE is required, pursuant to the CEA and CFTC regulations specifically addressed to ECMs, to:

- prepare and maintain for five years records of all transactions executed on its markets;

- report to the CFTC certain information regarding transactions in products that are subject to the CFTC's jurisdiction and that meet specified trading volume levels;

- report to the CFTC certain trader information on the execution of transactions in ICE's cleared natural gas market, pursuant to a special call for information from the CFTC;

- record and report to the CFTC complaints of alleged fraud or manipulative trading activity related to certain of ICE's products; and

- if it is determined by the CFTC that any of ICE's markets for products that are subject to CFTC jurisdiction serve a significant price discovery function (that is, they are a source for determining the best price available in the market for a particular contract at any given moment), publicly disseminate certain market and pricing information free of charge on a daily basis.

The information that ICE reports to the CFTC on a daily basis regarding natural gas contract positions for transactions executed on our platform is particularly instructive. This information is being provided pursuant to a special call from the CFTC for this data, which illustrates the CFTC's statutory and regulatory authority to obtain available information regarding transactions executed on ICE. It also illustrates ICE's commitment to ensuring that the CFTC has access to the information it needs, to the extent available to ICE, to conduct appropriate market surveillance or to take appropriate actions. ICE has worked extensively with the CFTC, and has expended substantial resources, to develop and provide position reporting information to the CFTC notwithstanding the fact that ICE does not have this information readily available due to the fact that, unlike NYMEX, it is not the party that actually clears such transactions (this is done by LCH.Clearnet). This information can be used by the CFTC alongside the information that NYMEX provides for a more comprehensive, but not complete, view of the market. The fact that ICE does not itself clear transactions executed on its platform, and does not control the clearing house through which transactions are cleared, means that there are certain limitations on the position information that ICE can provide in that positions can be moved within a clearing house. In addition, the fact that ICE represents only a small portion of the much larger OTC marketplace means that the CFTC's view will necessarily be incomplete. However, we will continue to work with the CFTC to enhance the nature and quality of the information that we provide and we are committed to furnishing any information needed by the CFTC that is available to ICE.

<u>ICE Does Not Operate Under the "Enron Loophole" and is Not "Unregulated"</u>

The Permanent Subcommittee Report refers repeatedly to the so-called "Enron Loophole" and claims that ICE operates under this "loophole" and is "unregulated." These characterizations are simply false and reflect a fundamental misunderstanding of ICE's regulatory status. The "Enron Loophole" is the term used to describe a provision of the CFMA that completely excused Enron from the CEA and the CFTC's jurisdiction in all respects in connection with its operation of "Enron Online," an electronic dealer network. The basis for this immunity was that Enron Online functioned as a "one-to-many" platform, with Enron serving as a party to every transaction executed on its

system. Enron, as a trading entity, was the market with respect to Enron Online. As a result, under Section 1a(33) of the CEA, Enron was excluded from the definition of a "trading facility" and was therefore not subject to any provisions of the CEA at all. None of this is applicable to ICE. ICE is not eligible for the immunity under which Enron operated and has never claimed or sought to operate as such. Indeed, ICE fully supports the closing of the so-called "Enron Loophole" and endorses the Report's recommendations in this regard without reservation.

In contrast to Enron, ICE operates pursuant to Section 2(h)(3) of the CEA, which imposes a number of substantive requirements on ICE, and is subject to the CFTC's jurisdiction and to recordkeeping, reporting and other regulatory obligations. For this reason, it is also inaccurate to claim, as does the Report, that ICE is "unregulated." Enron clearly was "unregulated" pursuant to the "Enron Loophole" and was not subject to any provisions of the CEA or CFTC rules. Transactions on ICE, in contrast, are fully subject to the antifraud and antimanipulation provisions of the CEA, and ICE itself is subject to the CFTC's oversight authority and to recordkeeping and reporting requirements. It is of course accurate to state that ICE is not regulated in the same manner as designated contract markets, but this is largely due to the practicalities of the OTC market structure discussed herein, including the nature of the participants, the large number of products, the use of cleared and bilateral trading, various levels of product standardization, and the reliance on futures exchanges and third party index providers for settlement prices. The assertion that ICE is "unregulated," or is somehow comparable to Enron, however, is simply false and derisive -- if this assertion were true, it would clearly not engender the confidence in our markets required to attract and maintain our customers, the majority of which are commercial energy firms.

The CFTC and NYMEX Have Access to Information Regarding Trading on ICE

The Permanent Subcommittee Report further contends that the CFTC and NYMEX were unable to conduct proper surveillance of natural gas trading by Amaranth because they did not have access to and could not obtain information about Amaranth's trading on ICE. The contention that the CFTC and NYMEX could not obtain this information is not accurate.

As noted above, the CFTC has the authority to make special calls to ICE for any information that it requires, and the CFTC has in fact exercised this authority to require additional information from ICE both before and since the events described in the Report. In addition, the CFTC recently proposed amendments to its regulations clarifying its existing requirement that large traders on DCMs maintain books and records of their transactions and to make such books and records available to the CFTC. In proposing these amendments, the CFTC noted that "The Act [the CEA] provides ample authority to require keeping books and records and providing pertinent information with respect to non-reporting transactions [i.e., those not executed on a futures exchange]." 72 Fed. Reg. 34413 (June 22, 2007). It also pointed out that the CFTC previously interpreted its rules "to include position and transaction data for non-reporting transactions" and that it "has received such information in response to requests made pursuant to the Regulation."

While the CFTC believed it appropriate to clarify the obligations of participants in the futures markets, therefore, it also made it clear that the CFTC currently has the power to obtain the information.

In a recent speech, subsequent to the Amaranth events but prior to the recent rule proposal, CFTC Commissioner Walter Lukken noted that

> ICE is prominent in the trading of natural gas swaps that are pegged to regulated NYMEX futures contracts. This competition has led to significant innovation over the last several years both in the OTC and regulated marketplaces. From a risk perspective, this competition raises the possibility that traders could take positions on one market in order to profit off positions on the other. To address this concern, the CFTC has recently utilized its authorit[y] to request information from ICE regarding trader position data for these pegged contracts on an ongoing basis similar to what we receive from large traders on regulated exchanges. This has allowed our surveillance staff a more comprehensive view of this marketplace. These tailored actions developed from risk considerations—primarily protecting the financial integrity of the *regulated* marketplace and the price discovery process for energy products.

Speech by Commissioner Walter Lukken, May 3, 2007.

As a self-regulatory organization, or "SRO," NYMEX similarly has the power under its rules to request information from its members regarding their trading on other markets, including ICE, and to compel its members to produce such information, in connection with assessing positions held in its portfolio. Specifically, even prior to the events related to Amaranth, NYMEX rules required its members to disclose to NYMEX, upon its request, their trading strategies, including those on other markets, in connection with positions exceeding NYMEX accountability levels. Moreover, if NYMEX believes that its current rules are inadequate to permit it to view members' positions on other markets, including ICE, it clearly has the power to amend its rules or adopt new rules to compel members to provide this information. To the extent that the CFTC and NYMEX did not have any necessary information regarding trading by Amaranth on ICE, it is inaccurate to suggest that they lacked such information because they had no authority or the ability to obtain it.

<u>Position Limits or Accountability Requirements on ICE's Markets are Not Necessary and Are Inappropriate</u>

The Permanent Subcommittee Report concludes that Amaranth was motivated and able to circumvent regulatory constraints by trading on ICE in part because ICE participants are not subject to position limits or position accountability rules. This assertion again reflects a misunderstanding of ICE's markets, the regulation of ICE and

the distinctions between ICE and the futures markets. First, as noted previously, ICE currently provides the CFTC with reports of all transactions executed by participants in its Henry Hub cleared natural gas swaps, pursuant to a special call from the CFTC issued after the Amaranth's trading losses. Because ICE is a principals-only market, this information is provided at the trader level and therefore gives the CFTC information on the activity of participants in our markets and facilitates the ability of the CFTC to take appropriate action in connection with potentially problematic or illegal conduct. Second, ICE's natural gas swap is a cash-settled contract, with settlement priced *against* the physical NYMEX natural gas futures contract. The CFTC itself has acknowledged that there is less of a need for market surveillance in connection with cash settled contracts. Specifically, the CFTC has stated that "[t]he size of a trader's position at the expiration of a *cash-settled* futures contract cannot affect the price of that contract because the trader cannot demand or make delivery of the underlying commodity. The surveillance emphasis in cash-settled contracts, therefore, focuses on the integrity of the cash price series used to settle the futures contract." (CFTC Website, www.cftc.gov/opa/backgrounder/opasurveill.htm; emphasis added.) For this reason, the ICE cash-settled swap -- *like the NYMEX cash-settled swap* -- is not subject to position limits.

As previously noted, NYMEX offers -- and Amaranth traded -- a cash-settled natural gas swap, through its "Clearport" facility. The Report acknowledges this, but ignores the fact that, because the NYMEX swap is cash-settled, there are no position limits on this contract, which is subject only to position accountability. As an article in "The Desk" recently reported, "NYMEX puts limits on NG [the natural gas futures contract] but not NN [the cash-settled natural gas swap]. NN has no limits. The [Permanent Subcommittee] Report never mentions this. Yet for some reason, financial contracts on ICE should be limited. Where is the logic there? NYMEX lifted the NN limits earlier in the year and clamped down on NG, which is the true pricing mechanism. NN reporting is still there but not the limits. It was a brilliant and appropriate maneuver." The Desk, June 29, 2007. We believe that there are compelling reasons for different treatment of the NYMEX natural gas futures contract and ICE's cash-settled swap; there is no clear reason whatsoever to treat the ICE contract differently from NYMEX's identical cash-settled swap, and yet that is what the Report advocates. If Congress seeks to implement a "level playing field," it should be between substantively similar contracts and, if ICE's natural gas swap is to be compared to any other product, it should be the NYMEX natural gas swap and all other OTC swaps offered by voice brokers, not the NYMEX futures contract. Otherwise, the impact would be commercially- oriented rulemaking that codifies preference for one venue despite identical products and reporting structures. In any event, the CFTC has ample authority under current law to require ICE to obtain or provide to the CFTC additional information regarding its participants' trading activities if the CFTC believes such action to be necessary or appropriate.

Third, we note that NYMEX (not the CFTC) imposes *position limits* on its physical natural gas futures contract only during the final three days of trading in its natural gas futures contract and, at all other times, requires only accountability reports

from certain participants. Moreover, as the Permanent Subcommittee Report itself points out, over the course of several months NYMEX took no action as Amaranth consistently exceeded its accountability levels; in fact, NYMEX increased the limits applicable to Amaranth, apparently based solely on Amaranth's unsubstantiated requests and without seeking information about Amaranth's trading on ICE or other markets, despite its ability to request and obtain such information from market participants.

The balance created under the CFMA was designed to allow ECMs to function effectively in the OTC market while providing the CFTC with ample authority to oversee their activities and trading by their participants. ECMs like ICE operate in an environment that is qualitatively distinct in a number of fundamental respects from that of the futures markets, despite the surface similarities. Congress and the CFTC recognized these distinctions and have sought to create a regulatory environment that allows OTC markets to perform their important role in the markets while still ensuring market integrity and the protection of participants, as well as using technology, transparency and innovation to promote the advancement of these goals. The judgments made by Congress and the CFTC are fair, appropriate and effective and have promoted competition and transparency in the OTC markets and in the broader derivative markets as well. Indeed, the development of markets, such as ICE, has benefited users of the energy markets by tightening market spreads centralizing liquidity and attracting participants by bringing more transparency to the markets. This evolution has also forced member-dominated exchanges, such as NYMEX, to overcome their traditional hostility to electronic trading and preference for floor-based markets to provide a more efficient, accessible and transparent means of trading to end users of the markets. As Senator Coleman noted in his statement in the Hearings on the Report, "If we extend CFTC oversight and regulation to electronic, over-the-counter exchanges, we must avoid unintended consequences. These exchanges have brought vital liquidity and increased transparency to our energy markets. Therefore, we cannot create incentives for traders to shift their business from over-the-counter electronic exchanges like ICE, to far less transparent and unregulated markets."

The Markets and Regulatory System Effectively Managed the Collapse of Amaranth

It is of course an unwelcome event when any market participant suffers losses of any size and certainly losses of the magnitude sustained by Amaranth. That is true even when, as in this case, the participants absorbing those losses were institutions or sophisticated investors. To the extent that other market users or consumers incurred losses or higher costs as a result of Amaranth's losses, which we do not believe to be the case, that is obviously regrettable. However, it is not the responsibility of Congress or the regulators to protect market participants against fundamentals, poor decisions or major losses. Their role is to ensure that the markets are able to function properly, free of abuses such as manipulation and fraud, and that all market participants are treated fairly. Despite the collapse of Amaranth, the fact is that the markets and regulatory system did their job, neither the price nor supply of natural gas experienced any significant impact, and the effects of Amaranth's collapse were largely contained to a discrete time period and, unlike other hedge fund issues, did not lead to a bail out or market contagion.

As Commission Lukken noted in his recent speech, cited above, "[d]espite the stress to the system incurred by Amaranth's falter, the CFTC's regulatory safeguards – as well as those of the exchanges, clearinghouses and intermediaries – worked as intended and the impact of this failure did not spread systemically beyond the firms involved." The Federal Energy Regulatory Commission ("FERC") as well noted, in the aftermath of the Amaranth collapse, that "despite Amaranth's loss and subsequent sale of its natural gas positions, activity in the futures market related to this time period has remained fairly stable at record levels, not decrease [sic]. To some degree, that level of interest may be seasonal. Still despite a spectacular failure by an active participant in financial gas markets, winter positions remain significant." FERC Report, 2006-07 Natural Gas Summary, http://www.ferc.gov/EventCalendar/Files/20061019110945-A-3-talking.pdf. While, as I will discuss, we support enhancements to the current oversight of the markets, these events simply do not warrant any wholesale changes to the level or nature of regulation.

ICE Supports Many of the Report's Recommendations

Notwithstanding the issues raised above, we believe that the Permanent Subcommittee Report will result in further enhancements to the current regulatory structure and we strongly support a number of its recommendations. First, we share the Subcommittee's view that the funding of the CFTC should be increased and its staffing and resources significantly expanded. The CFTC is obviously a critical component in the system of market controls and oversight and its role is critical in ensuring the continued integrity of all markets within its jurisdiction. With the growth of these markets and the introduction of new types of market participants, it is essential that the CFTC have the tools it needs to oversee the markets and to perform its vital functions. Second, we support the closing of the "Enron Loophole." While ICE does not operate under this provision, and, to our knowledge, it is not currently being relied upon by other market participants, it creates an unnecessary opportunity for dealers to operate OTC markets completely outside of the CFTC's regulatory jurisdiction. There is no reason why all electronic platforms, including single-dealer platforms, should not be subject to the same requirements as ECMs. Finally, we fully endorse enhancements to the quality and quantity of information currently available to the CFTC and, in particular, its ability to integrate data from ICE and NYMEX.

We understand the surface appeal of the so-called "level playing field" argument for treating and regulating ICE and NYMEX's futures market similarly. However, these markets are fundamentally different in significant respects, and any regulatory approach must take those differences into account. Also, this argument ignores the much larger OTC market outside of both ICE and NYMEX. Indeed, as we have noted, if there is a comparison between ICE and NYMEX products to be made, it is the comparison between ICE's OTC market and NYMEX's cash-settled swap, not its futures market. While we support the maintenance of a "level playing field," we do not believe that this can or should result in regulating cash-settled OTC contracts in the same manner as physically-settled futures contracts because they are fundamentally different products.

Thank you for the opportunity to share our views with you on these important issues. We once again commend the Subcommittee and its Staff on their excellent work in this area. I would be happy to answer any questions you may have.