



6 May 2009

**Conditions for Authorisation for Providing Automated Trading Services (ATS) under Part III of the Securities and Futures Ordinance (SFO)**

Pursuant to section 95(2) of the SFO, the Commission hereby authorises ICE Futures U.S. Inc. ("ICE Futures U.S.") for providing ATS in Hong Kong with effect from 6 May 2009. The authorisation will be subject to annual renewal thereafter and with the following conditions.

ICE Futures U.S. shall undertake to:

1. Ensure that ICE Futures U.S. admits as members only corporations licensed by the Commission under Part V or authorised under Part III of the SFO unless the Commission agrees otherwise and ICE Futures U.S. has proactively notified the Commission of the registration status of prospective members in Hong Kong;
2. Upon prior written notice, provide the Commission with information relating to transactions (authorised by the Commission under section 95(2) of the SFO) conducted via the ICE Platform system by ICE Futures U.S. members in Hong Kong for the purposes of any inquiry or investigation by the Commission under the SFO into transactions originating from Hong Kong and/or the conduct of ICE Futures U.S. members in Hong Kong. Such information disclosure can be facilitated by the two Memoranda of Understanding between the regulatory authorities of Hong Kong and the United States (namely "Memorandum of Understanding between the United States Commodity Futures Trading Commission and the Hong Kong Securities and Futures Commission Concerning Consultation and Cooperation in the Administration and Enforcement of Futures Laws" and the "Declaration on Cooperation and Supervision of Cross-Border Managed Futures Activity"), both signed on October 5, 1995;
3. Notify the Commission on any material changes to the matters set out in paragraphs 52 and 62 of the Guidelines for the Regulation of ATS and particularly to the matters specified below, prior to the changes taking effect –
  - 3.1. Company structure;
  - 3.2. The ICE Platform system (including changes in hardware, software, and other technology);
  - 3.3. Contractual documentation, if there are direct or indirect changes to the contractual responsibilities for members of ICE Futures U.S. in Hong Kong;
  - 3.4. Criteria for approval or disapproval of members of ICE Futures U.S. in Hong Kong; and
  - 3.5. Markets and products to be traded through the ICE Platform system by members of ICE Futures U.S. in Hong Kong;
4. Put in place appropriate business continuity plans and disaster recovery programmes for ICE Futures U.S.' operation in Hong Kong and notify the Commission of any material changes to the plans or programmes;

5. Provide the Commission with the following **monthly** statistics:
  - 5.1. The volume of trades (**by each member of ICE Futures U.S.**) conducted on the markets over the ICE Platform system resulting from orders originating from Hong Kong; and
  - 5.2. The aggregate volume of trades conducted on the markets over the ICE Platform system;

Such statistics are to be provided at such intervals as the Commission may specify and, in the absence of any such specification, on a **quarterly** basis within two weeks after the end of March, June, September and December. A nil return is required if there is no trading in the relevant interval; and

6. Notify the Commission of the identity and location of ICE Futures U.S. members in Hong Kong (by providing a **monthly** status report within two weeks after the end of each month).

The Commission may, by notice in writing, amend and revoke the above conditions or impose new conditions where it is satisfied that it is appropriate to do so, pursuant to section 97 of the SFO.