

Annex 3

**CHARTER OF THE AUDIT COMMITTEE
OF THE BOARD OF DIRECTORS OF
INTERCONTINENTALEXCHANGE, INC.**

I. PURPOSE

The Audit Committee (the "Committee") of the Board of Directors of IntercontinentalExchange, Inc. (the "Company") shall assist the Board of Directors (the "Board") in fulfilling its **oversight responsibilities** with respect to: (i) the quality and integrity of the financial statements of the Company and the financial reports and other financial information provided by the Company to the public or any governmental body; (ii) the Company's **compliance** with legal and regulatory requirements; (iii) the Company's **systems of internal controls** regarding finance, accounting and legal compliance; (iv) the **qualifications and independence** of the Company's independent auditors; (v) the performance of the Company's internal audit function and independent auditors; (vi) the Company's auditing, accounting, and financial reporting processes generally; and (vii) the performance of such other functions as the Board may assign from time to time. To this end, the Committee will maintain **free and open communication** with the Board, the independent auditors, the Company's internal auditor, legal counsel and any other person responsible for the financial management of the Company. The Committee will also prepare the report of the Committee required by the rules of the Securities and Exchange Commission and the New York Stock Exchange ("NYSE") to be filed in the Company's annual proxy statement. Consistent with its functions, the Committee will encourage continuous improvement of, and will foster adherence to, the Company's policies, procedures and practices at all levels.

The Committee will primarily fulfill its responsibilities by carrying out the activities enumerated in Section V of this Charter.

The Committee's responsibility is one of oversight. In discharging its oversight role, the Committee is empowered to investigate any matter brought to its attention with **full access** to all books, records, facilities, and other personnel of the Company and the authority to engage independent counsel and other advisors as it determines necessary to carry out its duties and responsibilities. While the Committee has the responsibilities and powers set forth in this Charter, it is not the duty of the Committee to plan or conduct audits or to determine that the Company's financial statements are complete and accurate and are in accordance with generally accepted accounting principles ("GAAP"). Management is responsible for the preparation, presentation, and integrity of the Company's financial statements and for the appropriateness of the accounting principles and reporting policies that are used by the Company. The Company's independent auditors are responsible for auditing the Company's financial statements and for reviewing the Company's unaudited interim financial statements.

The Committee does not provide any expert or other special assurance as to such financial statements or any expert or any professional certification as to the work of the

Company's independent auditors. It is not the responsibility of the Committee to resolve disagreements, if any, between management and the Company's independent auditors. In fulfilling their responsibilities hereunder, it is recognized that members of the Committee are not full-time employees of the Company and are not, and do not represent themselves to be, accountants or auditors by profession or experts in the fields of accounting or auditing, including in respect of auditor independence. As such, each member of the Committee shall be entitled to rely on (i) the integrity of those persons and organizations within and outside the Company from whom he or she receives information, (ii) the accuracy of the financial statements and other information provided to the Committee by such persons or organizations absent actual knowledge to the contrary (which shall be promptly reported to the Board), and (iii) any representations made by management or the Company's independent auditors as to any non-audit services provided by the independent auditors to the Company.

II. COMPOSITION AND ORGANIZATION

The Committee will consist of at least three directors, or such greater number determined by the Board, each of whom must be an "Independent Director" (as defined below). Members of the Committee shall be appointed by the Board and, unless otherwise directed by the Board, shall serve one-year terms. Members may be removed by the Board at any time with or without cause. Membership on the Committee shall automatically end at such time as a member ceases to be a member of the Board. Upon the removal or resignation of a member, the Board may appoint a successor to serve the remainder of the unexpired term. One member of the Committee will be appointed chairperson by the Board. If the Board fails to appoint the Committee's chairperson, the Committee will appoint one member of the Committee as chairperson. The Committee shall have the power to create subcommittees with such powers within its areas of responsibility as the Committee shall from time to time confer.

For purposes of this Charter, the term "Independent Director" means: a person other than an officer of the Company or its subsidiaries or any other individual having a relationship which, in the opinion of the Board, would interfere with the exercise of independent judgment in carrying out the responsibilities of a member of the Committee or a director. The following persons shall not be considered independent:

- ◆ a director who is, or at any time during the past three years was, employed by the Company, or who has an Immediate Family Member (as defined below) who is, or at any time during the past three years was, an executive officer of the Company (although employment as an interim Chairman or CEO or other executive officer does not disqualify a director from being independent);
- ◆ a director who received or who has an Immediate Family Member who received in excess of \$100,000 in direct compensation from the Company, during any period of 12 consecutive months within the three years preceding the determination of independence, other than director and committee fees and pension or other forms of deferred compensation for prior service (provided such compensation is not contingent in any way on continued service);
- ◆ a director who is, or who as an Immediate Family Member who is, a current partner of a firm that is the Company's internal or external auditor;

- ◆ a director who is a current employee of a firm that is the Company's internal or external auditor;
- ◆ a director who has an Immediate Family Member who is a current employee of a firm that is the Company's internal or external auditor and who participates in the firm's audit, assurance or tax compliance (but not tax planning) practice;
- ◆ a director who was, or who has an Immediate Family Member who was, within the last three years (but no longer) a partner or employee of a firm that was the Company's internal or external auditor and who personally worked on the Company's audit within that time;
- ◆ a director who is, or who has an Immediate Family Member who is, employed as an executive officer of another entity where at any time during the past three years any of the Company's present executive officers at the same time serves or served on the compensation committee of such other entity; or
- ◆ a director who is a current employee, or who has an Immediate Family Member who is a current executive officer, of a company that has made payments to, or received payments from, the Company for property or services in an amount which, in any of the last three fiscal years, exceeds the greater of \$1 million or 2% of such other company's consolidated gross revenues (contribution to charitable organizations shall not be considered "payments" for purposes of this test, as long as disclosures are made for charitable contributions exceeding the foregoing amounts).

Additionally, the following enhanced "Independent Director" requirements apply to members of the Audit Committee. Each member of the Audit Committee must meet the following requirements:

- ◆ The member does not accept, directly or indirectly, any consulting, advisory, or other compensatory fee from the Company or any subsidiary of the Company (which shall include compensation paid by the Company to a consulting firm, investment bank, financial advisory firm, accounting firm, or law firm with which a director serves as an executive officer, partner, or similar position, but which shall not include fixed amounts of compensation under a retirement plan for prior service or fees related to service on the board or a committee thereof); and
- ◆ The member is not an affiliated person of the Company or any subsidiary of the Company.

A person shall be deemed "affiliated" with the Company if such person, directly or indirectly, controls, or is controlled by, or is under common control with, the Company. A person shall not be deemed to be in "control" of the Company if such person is not the beneficial owner, directly or indirectly, of more than 10% of any class of voting equity securities of the Company and such person is not an executive officer of the Company.

For purposes of this Charter, "Immediate Family Member" includes a person's spouse, parents, children, siblings, mothers- and fathers-in law, sons- and daughters-in law, brothers- and sisters-in-law, and anyone (other than domestic employees) who shares such person's home. The above criteria for director independence may be revised from time to time to conform to the requirements of New York Stock Exchange and requirements promulgated by the Securities and Exchange Commission.

III. QUALIFICATIONS

Each member of the Committee must be able to read and understand fundamental financial statements, including the Company's balance sheet, income statement and cash flow statement. Additionally, the chairperson of the Committee must have past employment experience in finance or accounting, requisite professional certification in accounting or any other comparable experience or background which results in the individual's financial sophistication, including being able to meet the requirements of a "financial expert" as that term is defined by the Securities and Exchange Commission and as required by the Sarbanes-Oxley Act of 2002, which are as follows:

- ◆ Has an understanding of GAAP and financial statements
- ◆ Has the ability to assess the general application of such principles in connection with the accounting for estimates, accruals and reserves
- ◆ Has experience preparing, auditing, analyzing or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the Company's financial statements, or experience actively supervising one or more persons engaged in such activities
- ◆ Has an understanding of internal controls and procedures for financial reporting; and
- ◆ Has an understanding of audit committee functions.

No director may serve as a member of the Committee if such director serves on the audit committees of more than two other public companies unless the Nominating and Governance Committee and the Board determine that such simultaneous service would not impair the ability of such director to effectively serve on the Committee and such determination is disclosed in the Company's annual proxy statement.

IV. MEETINGS

The Committee will meet at least four times annually and more frequently as circumstances dictate. The Committee chairperson will establish the agenda for each Committee meeting. As part of its job to foster open communication, the Committee will meet at least quarterly with management (including the Chief Financial Officer, corporate controller, chief legal counsel and others, as appropriate), the internal auditor and the independent auditors in separate executive sessions to discuss any matters that the Committee or any of these groups

believe should be discussed privately. In addition, the Committee will meet with the independent auditors and management quarterly to review the Company's financial statements, consistent with Section V below.

V. RESPONSIBILITIES AND DUTIES

To fulfill its responsibilities and duties the Committee will:

1. *Document/Report Review*

- (a) Review this Charter at least annually, update this Charter as necessary and ensure that this Charter is submitted to the Company's Secretary for posting on the Company's website.
- (b) Review any reports containing financial information that are submitted to any governmental body, or the public, including any certification, report, opinion, or review rendered by the independent auditors.
- (c) Review with financial management and the independent auditors each Form 10-Q and Form 10-K prior to its filing.
- (d) Review, at least annually, a report by the independent auditors describing:
 - (i) the independent auditors' internal quality-control procedures and
 - (ii) any material issues raised by the most recent review of the independent auditors, or by any inquiry or investigation by governmental or professional authorities, within the preceding five years, respecting one or more independent audits carried out by the independent auditors, and any steps taken to deal with any such issues.
- (e) Review a formal written statement submitted by the independent auditors to the Company at least annually which delineates all relationships between the independent auditors and the Company, consistent with Independence Standards Board Standard No. 1 and hold discussions with the independent auditors regarding any disclosed relationships that may impact the auditor's objectivity or independence.
- (f) Review a report of the independent auditors prior to the filing of the Form 10-K or the release of any audited financial statements of the Company with respect to:
 - (i) all critical accounting policies and practices used;
 - (ii) all alternative treatments of financial information within GAAP that have been discussed with management, ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the independent auditor; and

- (iii) other material written communications between the independent auditors and management, such as any management letter or schedule of unadjusted differences.
 - (g) Review any information from the Disclosure Controls Committee.
 - (h) Review the reports filed in the Company's periodic filings with respect to the Company's internal controls over financial reporting.
 - (i) Prepare (or cause to be prepared) the report of the Committee to be included in the Company's annual proxy statement.
 - (j) The Committee shall discuss with management, legal counsel and the independent auditors any correspondence with regulators or government agencies and any employee complaints or published reports that raise material issues regarding the Company's financial statements or accounting policies.
2. *Independent Auditors, Internal Auditors and Other Advisors*
- (a) Select and hire the independent auditors. The Committee shall have sole authority, without Board action, to select and hire the independent auditors, considering independence and effectiveness. On an annual basis, the Committee should review and discuss with the independent auditors all disclosed relationships the independent auditors have with the Company to determine the independent auditors' objectivity and independence, consistent with Independence Standards Board Standard No. 1.
 - (b) Review and approve the independent auditors' fees. The Committee shall have sole authority, without Board action, for such actions.
 - (c) Approve all audit and non-audit services provided by the independent auditors, prior to the Company's receipt of such services. The Committee shall have sole authority, without Board action, for such review and approval. All approved non-audit services shall be disclosed in the Company's periodic reports required by Section 13(a) of the Securities Exchange Act of 1934, as amended.
 - (d) Review and evaluate the qualifications, performance and independence of the independent auditors and when circumstances warrant, discharge the independent auditors. The independent auditors will be accountable to the Board and the Committee, as representatives of the stockholders of the Company.
 - (e) Periodically consult with the independent auditors out of the presence of management about internal controls and the fullness and accuracy of the Company's financial statements. Instruct the independent auditors on areas that require special attention.

- (f) Set clear hiring policies for employees or former employees of the independent auditors that meet SEC/NYSE standards. The Committee shall have sole authority, without Board action, to set clear hiring policies for employees or former employees of the independent auditors, including the requirement that no person be hired as Chief Executive Officer, Chief Financial Officer, Controller, Chief Accounting Officer or any other financial reporting oversight role if such person was employed by the independent auditors and participated in any capacity in the audit of the Company during the one year period preceding the date of initiation of such audit.
- (g) Hire and determine the fees and other retention terms for legal, accounting and other advisors to the Committee as it sees fit. The Committee shall have sole authority, without Board action, for such acts and shall be provided with appropriate funding for such acts.
- (h) Annually, review the pre-approval process for audit and permissible non-audit services.
- (i) Annually, review the overall audit plan as proposed by the independent auditors, internal audit and management, including the scope of the examination to be performed, the assistance to be provided by the internal auditors and any developments in accounting principles and auditing standards that may affect either the financial statements or the audit.
- (j) Review and approve the annual internal audit budget. On an annual basis, review the scope and results of the internal audit program/plan and meet with the Director of Internal Audit periodically (out of the presence of management and the Independent Auditors, as appropriate). Review with the Director of Internal Audit compliance with appropriate audit standards. Ensure that internal and external audit efforts have been coordinated and directed toward maximizing audit effectiveness.
- (k) Review a summary of internal audit findings and inquire whether appropriate corrective actions have been taken on significant audit findings. Also, review the current status of the annual internal audit plan and explanations for any significant deviations from the original plan.

3. *Financial Reporting Processes*

- (a) Discuss the annual audited financial statements and quarterly financial statements with management and the independent auditors, including the Company's disclosures under "Management's Discussion and Analysis of Financial Condition and Results of Operation."
- (b) Discuss earnings press releases, as well as financial information and earnings guidance provided to analysts and rating agencies.

- (c) In consultation with the independent auditors, review the integrity of the Company's internal and external financial reporting processes.
- (d) Consider the independent auditors' judgments about the quality and appropriateness of the Company's accounting principles as applied in its financial reporting.
- (e) Consider and approve, if appropriate, major changes to the Company's accounting principles and practices as suggested by the independent auditors or management.

4. *Process Improvement*

- (a) Establish regular and separate systems of reporting to the Committee by each of management and the independent auditors regarding any significant judgments made in management's preparation of the financial statements and the view of each as to appropriateness of such judgments.
- (b) Following completion of the annual audit, review separately with each of management and the independent auditors any problems or difficulties encountered during the course of the audit, including any restrictions on the scope of work or access to required information, and management's response to the problems or difficulties.
- (c) Review any significant disagreement between management and the independent auditors in connection with the preparation of the financial statements.
- (d) Review with the independent auditors and management the extent to which changes or improvements in financial or accounting practices, as approved by the Committee, have been implemented.
- (e) Report to the Board on a regular basis and forward copies of the minutes of all meetings to the Board.
- (f) Establish and review procedures for: (i) the receipt, retention and treatment of complaints received by the Company regarding accounting, internal accounting controls or audit matters; and (ii) the confidential anonymous submission by employees of concerns regarding accounting or auditing matters. Review complaints and submissions pursuant to those procedures.
- (g) Annually review and discuss with management (i) the Company's policies and procedures regarding officers' expenses and perquisites and (ii) a summary of officers' expenses and use of corporate assets.
- (h) Annually review and evaluate the performance of the Committee.

- (i) Review effectiveness of the Company's internal controls over financial reporting and disclosure controls and procedures.

5. *Legal Compliance*

- (a) Review, with the Company's counsel, any legal matter that could have a significant impact on the Company's financial statements and compliance programs and policies. The Committee shall have the power to conduct or authorize investigations into any matters within the Committee's scope of responsibilities. The Committee shall be empowered to retain independent counsel, accountants, or others to assist it in the conduct of any investigation.
- (b) Review and discuss the Company's risk assessment and risk management policies. Review the Company's major financial risk exposures and steps that management has taken to monitor them.
- (c) Review (i) the status of compliance with laws, regulations, and internal procedures, (ii) contingent liabilities and risks that may be material to the Company, (iii) the scope and status of systems designed to assure compliance with laws, regulations, and internal procedures, and (iv) major legislative and regulatory developments which could materially impact the Company. The foregoing may be facilitated through the receipt of reports from management, legal counsel and other third parties as determined by the Committee.
- (d) Review and approve all related party transactions.
- (e) Perform any other activities consistent with this Charter as the Committee deems necessary or appropriate, or as the Board further delegates to the Committee.

VI. APPROVAL AND ADOPTION

This charter was approved and effective as of the 15th day of November, 2005.

