

July 31, 2007

Office of Secretary
Securities and Exchange Commission
100 F Street, N. E.
Washington, D.C. 20549—1090

Attn: Ms. Nancy M Morris, Secretary

Via: Electronic Mail ONLY: Rule-Comments@SEC.gov

Ladies and Gentlemen,

RE: FILE NUMBER: SR-CBOE-2007-77

This letter is in reference to your File No. SR-CBOE-2007-77 in which you invite comments from all interested persons.

My interest in this rule filing concerns my standing as an applicant at the CBOE. I have been a member of the CBOE from March 1976 to February 2006. Since February of 2006 I have been trading on the CBOT, however I continued to update my CBOE application in order to receive the normal expedited approval process by filing the appropriate papers with the CBOE. Approximately two months ago I submitted my CBOE application as a CBOT exerciser with the intent to pursue trading at the CBOE just as I did for the 30 years that I made my living on the CBOE. On about July 13, 2007 I received notice that my application for CBOE membership had “expired” based on the new CBOE rule filing, SR-CBOE-2007-77. The CBOE office informed me that upon the date of July 12, 007, the date of the CBOT-CME merge, CBOT exercisers would not be recognized.

This action by the CBOE has in effect deprived me of making a living at the CBOE utilizing my CBOT membership as I did for thirty years. The CBOE has forced me to rent a CBOE membership at approximately \$56,400.00 dollars per year. However because there are no CBOE memberships available I cannot gain access to CBOE membership. Because I am officially not a CBOE member as of July 1,2007, I also do not qualify for the special permits issued by the CBOE at the same \$56,400.00 per year cost. Had I qualified for a special permit or a “regular” CBOE membership was available I would be at a substantially financially inferior position than I was when I utilized my CBOT membership in an exercised form. This extreme financial burden that I must absorb is not necessary if the status quo was maintained, that CBOT exercisers would continue to be recognized by the CBOE. . Further for the numerous reasons stated by the attorneys representing the CBOT-CME a CBOT membership that is exercised at the CBOE should continue to be granted all the rights and privileges as any other CBOE membership, just as they have since the inception of the CBOE. This fact is true even though the CBOT-CME merger has occurred. Despite what the CBOE claims, after the

merger the CBOT memberships have the same rights and privileges as they did prior to the merger. In fact the memberships of the two exchanges, CBOT and CME continue to remain separate and whole.

In addition the CBOE rule filing SR-CBOE-2007-77 is premature for the fact that this is what is being disputed both at the SEC level and the District Court of Delaware. As eloquently stated by the CBOT attorneys this is clearly a property rights issue and should be remanded to the District Court of Delaware. The fact that the CBOE has orchestrated this whole dispute in the form of a “SEC rule filing” and a “SEC rule interpretation” is preposterous and in fact devious. It is not an issue of market regulation or supervision of maintaining fair and orderly markets on the CBOE. The fact that the CBOE is regulated by the Securities and Exchange Commission and has a pre-existing relationship with the CBOE as compared with not having one with the CBOT is more reason for the SEC not to be the adjudicating body in this property rights dispute.

Until a resolution of this property rights dispute has occurred in the District Court of Delaware no action or rule filings are necessary by the CBOE. Further the claim that this rule is necessary to maintain “fair and orderly markets” is totally false, because if the CBOE did not submit a rule filing the existing situation would be maintained by keeping the CBOE memberships in balance. In fact in addition to depriving me the ability to make a living on the CBOE utilizing my CBOT exercise right this rule filing has the effect of increasing expenses in the amount of \$54,600 per year for each person in my situation at the CBOE and would possibly reduce the liquidity and therefore contribute to the potential ability of those market-makers from making “fair and orderly” markets.

Respectfully submitted,

William Terman