

August 23, 2007

Securities and Exchange Commission  
100 F Street, N.E.  
Washington, DC 20549-1090

Attn: Nancy M. Morris, Secretary

Re: **SR-CBOE-2007-91 and SR-CBOE-2007-77**

Ladies and Gentlemen:

The Chicago Board Options Exchange (“CBOE”) filed with the Securities and Exchange Commission (SEC) a proposed rule implementing a “Temporary Membership Status Access Fee.” The CBOE argues the merger of the Chicago Mercantile Exchange (CME) and the Chicago Board of Trade (CBOT) extinguish the CBOT Full Members right to exercise as a member of the CBOE. This matter is currently before the Delaware Court. The Delaware Court has clearly expressed:

“Despite the CBOE’s urgings to the contrary, the Court retains jurisdiction to determine whether the Defendants’ actions have the operative effect of divesting the Plaintiff-class of a vested economic and property interest in CBOE membership conferred through the Exercise Right.”

The CBOE indicated the preemptive action was taken to prevent a potential liquidity disruption in their option markets. The source of the phantom liquidity disruption was the CBOE. The unilateral extinguishment of CBOT Full Member exercise rights by the CBOE created the need for the “Temporary Permits.” The resolution to the phantom liquidity disruption benefited the CBOE members, management and Board of Directors at the expense of CBOT Full Members. Implementation of this Temporary Membership Program by the CBOE is not required to maintain liquid markets. Respecting the long standing contractual rights due the CBOT Full Member would have maintained liquid markets.

In conclusion, I request the SEC deny approval of the rule change and dissuade the CBOE from any further self-serving unilateral actions intended to extinguish the CBOT Exercise Rights.

Respectfully submitted,

Michael J. Crilly  
Member CBOT