

*Paul L. Richards*

29<sup>th</sup> July 2007

Office of the Secretariat  
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](mailto:Rule-Comments@SEC.gov)

Ladies and Gentlemen,

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

This note is in reference to your release issued in connection with your File No. SR-CBOE-2007-77 (the “Release”) in which you invite comment from all interested persons with reference to the Chicago Board Options Exchange’s (“CBOE’s”) Notice of Filing of Proposed Rule, the “Interim Access Rule” (“Proposed Rule Change”). Presenting views expressed in my individual capacity—but views endorsed by Eagle Securities, Inc. (CRD File No, 104430) (“Eagle”), an effectively-registered broker/dealer (“BD”) and Member Organization of the CBOE—this letter is submitted pursuant to such invitation.

#### BACKGROUND

The CBOE filed with the SEC the Proposed Rule Change on the 2<sup>nd</sup> July 2007. The Proposed Rule Change purports to continue unchanged the membership rights of Exerciser Members until the SEC acts on the CBOE’s “permanent” rule.

#### MY RESPONSE

The Proposed Rule Change, entitled the “Interim Access Rule”, is nothing more than another blatant attempt by CBOE to confiscate the property of those of us who are owners of CBOT Full Memberships and who also have “Exercised” at the CBOE. Since January of 1995, I have been an Exerciser Member of the CBOE through my CBOT Membership. Having paid the same dues and technology

fees, estimated at about \$6,000 per year, I also have the same voting privileges as other CBOE members. What the Interim Access Rule is attempting to do is to make me pay \$4,700 per month—or \$56,400 per year—MORE to access the CBOE, in addition to the current dues and fees.

The CBOE has stated, in DEFENDANTS' BRIEF IN OPPOSITION TO PLAINTIFFS' VERIFIED MOTION FOR A TEMPORARY RESTRAINING ORDER, ".....these Interim Members remain CBOE members and retain all rights and privileges that Exerciser Members previously enjoyed." However, they conveniently forgot to mention that they propose now to charge such Members \$56,400 per year in order to continue enjoying such privileges. If all CBOE members were now about to be compelled to pay this fee, then I would be prepared to pay it. However, this fee is to be levied solely on those CBOT Exerciser Members of the CBOE.

The CBOE goes on to state falsely ".....their rights as Exerciser Members—the right to trade, to vote, and to enjoy any of the other incidents of exercise membership—will be unchanged throughout this interim period." Again, the CBOE conveniently omits the little matter of the \$56,400 per annum levy.

There is no compelling market need for the Proposed Rule Change; the only reason CBOE is seeking its adoption is in order further to impair, and eventually to extinguish without compensation, the rights of CBOT Exerciser members. In so doing, they are attempting to make improper profits on the backs of Exerciser Members of which I am one.

The Proposed Rule Change, serving no identifiable public purpose whatsoever, is just another in a series of tactics by the CBOE to expropriate without compensation the property of part of its Membership, and to transfer such property—not inadvertently—to another part of its Membership, including members of its Board of Directors—the very body now seeking adoption of the Proposed Rule Change. This entire matter is, of course, purely a property dispute—a dispute currently the subject of litigation in Delaware Chancery Court. Please deny CBOE this rule change.

Respectfully submitted,

Paul L. Richards

CBOT Full Member since 1990

CBOE Exerciser and Equity Owner since 1995