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December 16, 2009

Elizabeth M. Murphy
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-0609

Re: File No. SR-ISE-2009-35

Dear Ms. Murphy:

We submit this letter with respect to the above-referenced rule filing, in which the International Securities Exchange, LLC ("ISE") proposes to adopt a Qualified Contingent Cross ("QCC") Order. The purpose of this letter is to address one issue the Chicago Board Options Exchange ("CBOE") raised in the statement it filed with the Commission on the QCC on December 3, 2009 (the "Statement").[1]

On page 15 of the Statement, CBOE states that "based on a recent analysis of manual executions on CBOE's trading floor, orders of 500 contracts or greater executed in open outcry on CBOE's trading floor involve more than one contra-party (i.e. receive trading crowd participation) over 48% of the time." In making this statement, CBOE is arguing that requiring exposure of QCC orders will provide significant market interaction and, presumably, will benefit investors.

We believe that the CBOE's statement is extremely misleading and cannot stand uncontested. We first note that we do not have access to data or other information to determine whether the CBOE's 48 percent number is correct. Thus, for the purpose of this letter we assume that the CBOE accurately states that 48 percent of executions of 500 or more contracts executed manually on its floor involve more than one contra-party. Even assuming that fact, this statement is otherwise misleading or just flatly wrong for the following reasons:

- Options executions tied to stock: Our QCC proposal is limited to options orders of 500 or more contracts that are tied to executions in the underlying

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[1] Statement of Chicago Board Options Exchange, Incorporated in Opposition to the Division of Trading and Market's Approval of Rule Under Delegated Authority dated December 3, 2009.

stock. The CBOE states that its 48 percent statistic applies to all options orders of 500 contracts or more executed on the floor, whether or not they are tied to stock. Thus, this number has only limited relevance to the QCC.

- Exclusively-listed index options: The CBOE's 48 per cent statistic appears to include executions of both multiply-listed stock options and its monopoly index options. This invalidates the CBOE's statistics. Trading in CBOE's monopoly products is primarily conducted in open outcry with significant limits placed on electronic trading. As a result, this is the only environment where friction and competition exists in floor trading. Furthermore, trading in index options cannot be tied to stock, making this data even less relevant to ISE's QCC order. In stark contrast, it is common knowledge that there is little – if any – floor participation and market maker presence in the equity option pits.

- Trading crowd participation: The CBOE's statement unequivocally equates having more than one contra-party to an execution with that trade having trading crowd participation. That statement is false. As we explained in our December 3, 2009, letter,[2] large trades generally are arranged upstairs, off a floor, and then brought to the floor for execution. In arranging the trade upstairs, the entering firm may well solicit – and include in the trade – more than one counter-party. The 48 percent number appears to include contra parties solicited prior to bringing the order to the floor.

- Price improvement: Even assuming there is some level of floor interaction with large contingency stock options orders, we fail to understand the relevance of such interaction in the abstract. Indeed, the CBOE makes no claim that such interaction provides price improvement for customers. Rather, it would appear that any interaction with the floor simply permits floor-based members to displace liquidity arranged off-floor at the same price.

We stand by the statements in our December 3, 2009 letter that:

- ➢ The crossing of large-size contingency orders on a floor today is not transparent because there are very few traders (if any) on the floor to hear an order "announced" and the orders are not disseminated electronically to any market participants;

- ➢ The crossing of large-size contingency orders on a floor today does not result in price discovery or meaningful price improvement; and

- ➢ The crossing of large-size contingency orders on a floor today is accomplished with little, if any, interruption.

[2] Letter dated December 3, 2009 from Michael Simon, Secretary, ISE, to Elizabeth Murphy, Secretary, Commission.

The CBOE has presented one misleading and inaccurate statistic to counter our position. The only statistic relevant to our proposed QCC would be for the CBOE, using data available only to it, to identify how often its floor-based members participate in equity options trades that are tied to stock. The CBOE should further explain how such interaction benefits investors. Otherwise, the Commission should not consider this purported "fact" it in its review of the QCC.

We again thank the Commission for the opportunity to address this issue. We respectfully request that the Commission affirm the Division of Trading and Market's approval of the QCC. If the Commission or staff have any further questions on this matter, please do not hesitate to contact us.

Sincerely,

Michael J. Simon,
Secretary

cc: Hon. Mary L. Schapiro, Chairman
Hon. Luis A. Aguilar, Commissioner
Hon. Kathleen L. Casey, Commissioner
Hon. Troy A. Paredes, Commissioner
Hon. Elisse B. Walter, Commissioner
James Brigagliano, Deputy Director, Division of Trading and Markets
Elizabeth King, Associate Director, Division of Trading and Markets