



Information Circular IC08-167

To: CBOE Membership

From: Office of the Chairman

Date: October 1, 2008

Re: Status of the Settlement of the Exercise Right Litigation

Over the past few weeks, several persons or entities have raised objections to the terms of the Stipulation of Settlement filed in the Exercise Right Litigation. The objections generally relate to the definition of the settlement class and to the criteria that must be satisfied in order for a person to become a “participating” settlement class member and thereby receive a share of the equity and cash consideration available to Group A class members.

On September 29, 2008, the Delaware Chancery Court conducted a hearing to consider some of the objections and heard argument from counsel for the objectors, the plaintiffs and CBOE. The Court did not rule on the merits of any of the objections, and indicated that it would issue a ruling prior to October 13.

On September 30, 2008, in response to the Court’s comments during the September 29 hearing, the parties filed an agreed amendment to the Stipulation of Settlement. That amendment changes the date by which a person, in order to qualify as a Group A class member, must have simultaneously beneficially owned or possessed by delegation at least one CBOT B-1 membership, at least one Exercise Right Privilege and at least 27,338 shares of CBOT common stock or, after consummation of the CME transaction, at least 10,251.75 shares of CME Group common stock. Under the agreed modification, that date would change from June 2, 2008 to August 22, 2008 (the date on which the Court preliminarily approved the settlement). In addition, the parties agreed to amend the “Eligibility Date” – the date by which a person must have reassembled the interests that qualify that person to participate in either the Group A Settlement Class or the Group B Settlement Class – from October 6, 2008 to October 14, 2008. Neither of these amendments represents a material change to the terms of the Stipulation of Settlement from the perspective of CBOE or its members.

We do not expect the Court to change the date of the final settlement hearing – December 16, 2008. We will continue to update the membership as events warrant and a copy of the amendment to the Stipulation of Settlement will be posted on the CBOE website.