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Re: CME Group, Inc. v. Chicago Board Options Exchange, Inc.
C.A. No. 2369-VCN

Dear Counsel:

I write to address the recent application of Geneva Trading USA, LLC
("Geneva") to be classified as a Participating Group B Settlement Class Member.

In due course, Geneva filed a Group A claim form. The Court recently determined that it did not qualify for Group A participation.¹ Geneva did hold an Exercise Right Privilege (“ERP”) and, thus, had the right to seek to participate in the Group B Settlement, but, unlike others who were uncertain as to their Group A status, it did not file a protective Group B claim around the time of the settlement hearing. Instead, it waited until last week to file such a claim.

Class Counsel opposes Geneva’s participation as a Group B member because of the delay in the filing of Geneva’s claim. Class Counsel and Geneva debate (i) who told whom what about the filing of a protective claim and (ii) who bears ultimate responsibility for the delay.

The Court need not resolve these factual disputes. Geneva timely filed a claim to participate in Group A. Class Counsel opposed Group A participation, but there was no dispute about Geneva’s holding of one common prerequisite for both Group A and Group B membership: an ERP. Thus, one who held an ERP, but did not properly qualify to be a member of Group A, such as Geneva, also, almost by definition, qualified for Group B, except for the absence of a claim form that would have contained the same material information as set forth in the Group A claim form.

¹ *CME Group, Inc. v. Chicago Bd. Options Exch., Inc.*, 2009 WL 1856693, at *6 (Del. Ch. June 25, 2009).

The Court acknowledges the concerns of Class Counsel with respect to the obvious delay in Geneva's filing of a Group B claim form. Whether it was entitled to participate as a member Group A was far from clear.² Under the circumstances, amidst the uncertainty, Geneva, otherwise entitled to participate in Group B, should be allowed to do so now, notwithstanding the tardiness of its filing of a Group B claim form. Accordingly, Geneva may participate in the Group B settlement.

Very truly yours,

/s/ John W. Noble

JWN/cap

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² See *id.* at *7 n.29 (recognizing that the line separating Group A membership from Group B membership fell on something of a continuum).