



KANSAS

OFFICE OF THE SECURITIES COMMISSIONER

MARK PARKINSON, GOVERNOR
CHRIS BIGGS, COMMISSIONER

August 6, 2009

Richard T. Miller
Schiff Hardin, LLP
6600 Sears Tower
Chicago, Illinois 60606

Re: Request for Opinion No. 2010-002
Issuance of Class B Common Stock of CBOE Holdings, Inc.
File No: 2009X00000009

Synopsis: Pursuant to exemption provided by K.S.A. 17-12a202(9) the shares of Class B common stock to be issued in accordance with the final order of the Delaware Court will not be required to Register under the Kansas Uniform Securities Act and the officers and directors involved in the issuance, that do not receive additional compensation for their involvement, are exempt from registration as agents of the issuer pursuant to K.S.A. 17-12a402(b)(3).

Dear Mr. Miller:

You have requested an opinion concerning exemption of securities and broker-dealers and/or agents from the registration provisions of the Kansas Uniform Securities Act ("Act"). I incorporate by reference the facts as presented in your request for exemption letter dated June 24, 2009. A brief summary follows.

The Chicago Board Options Exchange, Incorporated ("CBOE"), a Delaware membership corporation, is a national securities exchange regulated by the United States Securities and Exchange Commission ("SEC"). CBOE was originally funded by the Board of Trade of the City of Chicago, Inc. ("CBOT"). CBOE's Certificate of Incorporation provides a member of the CBOT a right ("Exercise Right") to become a member of CBOE without paying for that membership.

CBOE is engaged in a demutualization process by which it will convert from a non-stock corporation owned by its members to a stock corporation owned by its stock holders. On August 23, 2006, an action was brought in the Court of Chancery of the State of Delaware ("Delaware Court") against CBOE by CBOT, the parent of CBOT, CBOT Holdings, Inc. and two members of CBOT with regard to the value of the Exercise

Rights (“Exercise Rights Litigation”). On July 12, 2007, Chicago Mercantile Exchange Holding, Inc. (“CME Holdings”) acquired CBOT Holdings, Inc. and, thereby, CBOT (“Merger”). CBOE made a determination of the effects of the Merger on the Exercise Rights and additional litigation of the issues continued until August 20, 2008, when the parties entered into a Stipulation of Settlement (“Settlement”). The Settlement creates two groups that will receive shares of Class B Common Stock of CBOE Holdings, Inc., a wholly owned subsidiary of CBOE.

The Delaware court preliminarily approved the Settlement on August 22, 2008. On December 16, 2008, after notice to all members of the class in the Exercise Rights Litigation, the Delaware Court conducted a hearing to consider approval of the Settlement and objections filed by members of the plaintiff class. In a memorandum opinion, dated June 3, 2009, the Delaware Court certified the class and approved the Settlement as fair, reasonable and adequate.

Pursuant to K.S.A. 17-12a202(9), a transaction in which a security is exchanged for “one or more bona fide outstanding securities, claims, property interests, or partly in such exchange and partly for cash” is exempt if the terms, conditions and or deliverance of the securities are approved as fair by the Commissioner after a hearing or otherwise. Following review of the exchange of securities proposed in your “Request for Exemption from Registration for Class B Common Stock of CBOE, Holding, Inc.”, staff for the Commissioner have recommended a finding that the terms and conditions set forth in the Settlement are fair, just and equitable. After due consideration, the Commissioner adopts the recommendation of his staff and hereby approves the terms and conditions of the issuance of Class B Common Stock of CBOE Holdings, Inc., upon issuance of a final order by the Delaware Court.

With respect to the officers and directors of the issuer that are involved in the issuance of the securities, you have represented that they will not receive any additional compensation for performing certain ministerial tasks related to the issuance of the securities. Pursuant to K.S.A. 17-12a402(b)(3), these individuals are not required to register as broker-dealers or agents under the Kansas Uniform Securities Act.

The no-action position provided by this letter is based on the written representations and documentation provided by you on behalf of CBOE Holdings, Inc. and does not extend to any other similar fact situations of other issuers. Any variation in the facts presented to us could result in different conclusions. This letter is intended solely as an expression of enforcement policy and is not binding upon any court or other tribunal.

Sincerely, 


Wiley B. Kannarr
Associate General Counsel