June 24, 2004

BY E-MAIL AND CERTIFIED MAIL

Ms. Jean A. Webb
Office of the Secretariat
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, D.C. 20581

Re: The Clearing Corporation's Request to Permit Secured Amount Funds to be Commingled with Segregated Funds in furtherance of the Implementation of Phase 1 of the Global Clearing Link ("Euro Link")

Dear Ms. Webb:

The Board of Trade of the City of Chicago, Inc. ("CBOT®" or "Exchange") is writing this letter in response to the letter from The Clearing Corporation ("CC") dated June 2, 2004. In that letter, CC sought to respond to the Exchange's comment letter dated May 14, 2004. Our May 14 letter fully and fairly set forth the numerous deficiencies in, and important issues raised by, CC's request for relief. We are writing this letter to correct certain omissions and misstatements in CC's June 2 letter.

In its initial submission, CC discussed a number of linkages for which the Commission granted relief pursuant to its authority under Section 4d(a)(2) of the Commodity Exchange Act. CC did not make any mention of the trading and clearing link between the CBOT and the London International Financial Futures and Options Exchange ("LIFFE") and their respective clearinghouses; therefore, the CBOT did not discuss that link in its May 14 letter. Now, quite remarkably, CC attempts to hold the CBOT accountable for its omission.

This situation is compounded by the very summary and materially incomplete discussion of the CBOT/LIFFE link provided by CC. In granting relief with respect to that link, the Commission imposed an extensive set of conditions. The Commission staff recommended and the Commission agreed that:

> The … Order would allow U.S. FCMs to treat funds deposited in support of CBT-designated contracts executed at LIFFE and later transferred to BOTCC as segregated pursuant to Section 4d of the Act under certain conditions, including among other things, that the FCM fully cover the amount of their receivable due

> from the foreign clearing firm with assets actually in good section 4d locations, i.e. qualified bank depositories located in the U.S.[1]

Appendix A to the Order states additional conditions consisting of five pages of very detailed and tailored accounting requirements. This record demonstrates the high degree of caution exercised by the Commission in granting relief with respect to the CBOT/LIFFE link. It further demonstrates that CC is seeking relief under dramatically different conditions.

Regarding the link between the Chicago Mercantile Exchange ("CME") and the Singapore International Monetary Exchange ("SIMEX"), CC incorrectly argues that "the presence or absence of a system of segregation in Singapore was entirely irrelevant to the Commission's decision." The CME/SIMEX link agreement expressly requires SIMEX to covenant that, so long as that agreement is in effect, it will maintain segregation requirements "substantially identical in effect to those maintained by the CME from time to time."[2] The Agreement and CME rules were the two primary factual bases for relief expressly relied on by the Commission. Indeed, the sole fact set forth in the Commission staff's discussion of "Segregation of Customer Funds" is SIMEX's covenant.[3] Clearly, this was a material factor in the Commission's consideration of the CME/SIMEX link.

CC erroneously concluded that the CBOT's Bund, Bobl and Schatz contracts are not subject to intra-day margining and are not marked to market until two days after trades are made, as a result of its misreading of CME Clearing House Advisory Notice 04-62 (April 15, 2004). All foreign-denominated and U.S. dollar-denominated contracts cleared by CME are subject to a twice daily mark-to-market and margin calculation. However, pays and collects for foreign-denominated contracts are only settled at CME's end-of-day cycle because they do not meet certain thresholds set by CME. However, CME could settle these contracts during the intra-day cycle, by simply changing the threshold parameters in its system, if it determined that sound risk management required that it do so.

CME utilizes a "combined cash flow" settlement methodology for foreign-denominated contracts that maximizes the amount of foreign currency on deposit with CME, makes it possible to largely internalize pays and collects, and minimizes the number of necessary cash transfers. Only if foreign-denominated pays are not completely satisfied by

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[1] Memorandum to the Commission from the Division of Trading and Markets, The Chicago Board of Trade's Proposed Trading and Clearing Link with the London International Financial Futures and Options Exchange, 35 (emphasis added). The specifically referenced condition is also set forth in CBOT Regulation XX.08, included in Attachment B to the Commission's approval Order (May 6, 1997) ("Order").
[2] Agreement for the Creation of a Mutual Offset System between the Chicago Mercantile Exchange and the Singapore International Monetary Exchange Limited, Dated as of June 28, 1984 ("Agreement"), Article XIV, ¶ (g), at 28.
[3] "Description of the Mutual Offset System," Memorandum to the Commission from the Division of Trading and Markets and Division of Economic Analysis (August 28, 1984) at 50. Notably, this is the same page referenced by CC in its June 2 letter.

charging a clearing firm's internal collateral account on "T + 0", CME issues instructions to the firm's settlement bank, and the settlement bank confirms the residual pay amount to CME by 6:40 a.m. on "T+1", just as it does for U.S. dollar settlements. Although foreign currencies are not collected from the settlement bank until "T+1+1", the settlement bank has guaranteed the payment obligation at 6:40 a.m. on "T+1"; thus, at that point, bank risk has replaced clearing firm risk.

CME's margin process is effectively identical for foreign-denominated contracts and U.S.-denominated contracts. Margin is calculated during the intra-day and end-of-day cycles, and margin calls are issued as necessary, payable in U.S. dollars, twice a day.

In our May 14 letter, the CBOT demonstrated that CC's bankruptcy analysis was flawed. Specifically, CC has failed to demonstrate that Euro Link customers would be entitled to the same priority and *pro rata* distribution as that for other commodity contracts with respect to a futures commission merchant. Further, the CBOT renews its request that, if the Commission were to grant CC relief, the Commission should require that CC disclose to its clearing participants that it is not clear that customers would have the same priority in bankruptcy with respect to Euro Link transactions as they would with respect to domestic futures transactions cleared by CC.

The proceedings of the Commission's Global Markets Advisory Committee on June 2, 2004, underscored the need for caution in assessing the impact on bankruptcy of merging for regulatory purposes funds held in segregation and as the secured amount under Commission Regulation 30.7. It was manifest that bankruptcy considerations are of paramount importance to the industry and very complex in an international context. Any changes in how customer funds are held and potentially treated in bankruptcy should be made only after a deliberative process with broad-based industry input, rather than incident to a factually unprecedented link arrangement.

The CBOT appreciates the opportunity to provide comments on this matter. If you have any questions regarding these comments, or wish to discuss this matter, please feel free to call Anne Polaski, Assistant General Counsel, at (312) 435-3757.

Sincerely,

Bernard W. Dan