

CBOT HOLDINGS INC  
Form PRRN14A  
June 14, 2007

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**AMENDED PRELIMINARY PROXY STATEMENT SUBJECT TO COMPLETION  
DATED JUNE 14, 2007  
UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549  
SCHEDULE 14A**

Information Proxy Statement Pursuant to Section 14(a)  
of the Securities Exchange Act of 1934

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

**Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material Pursuant to §240.14a-12

CBOT HOLDINGS, INC.

(Name of Registrant as Specified In Its Charter)

INTERCONTINENTALEXCHANGE, INC.

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.

Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

- Fee paid previously with preliminary materials.
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(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

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**AMENDED PRELIMINARY PROXY STATEMENT SUBJECT TO COMPLETION  
DATED JUNE 14, 2007**

**SPECIAL MEETING OF THE CLASS A STOCKHOLDERS  
OF  
CBOT HOLDINGS, INC.  
TO BE HELD ON JULY 9, 2007**

**PROXY STATEMENT  
OF  
INTERCONTINENTALEXCHANGE, INC.**

**SOLICITATION OF PROXIES IN OPPOSITION TO THE PROPOSED MERGER OF  
CBOT HOLDINGS, INC. WITH AND INTO CHICAGO MERCANTILE EXCHANGE HOLDINGS INC.**

This Proxy Statement (the "Proxy Statement") and the enclosed BLUE proxy card are furnished by IntercontinentalExchange, Inc., a Delaware corporation ("ICE") (for convenience purposes, throughout this Proxy Statement we sometimes refer to ICE as the party soliciting proxies), in connection with ICE's solicitation of proxies to be used at a special meeting (the "Special Stockholder Meeting") of stockholders ("CBOT Stockholders") who hold shares of Class A common stock, par value \$0.001 per share (the "Shares") of CBOT Holdings, Inc., a Delaware corporation ("CBOT"), to be held on July 9, 2007, at the Union League Club of Chicago, 65 West Jackson Boulevard, Chicago, Illinois at 3:00 p.m. Chicago time, and at any adjournments, postponements or reschedulings thereof. Pursuant to this Proxy Statement, ICE is soliciting proxies from (1) CBOT Stockholders to vote AGAINST the proposal to adopt the Agreement and Plan of Merger, dated as of October 17, 2006, as amended as of December 20, 2006, and as further amended as of May 11, 2007 and June 14, 2007, among Chicago Mercantile Exchange Holdings Inc. ("CME"), CBOT and the Board of Trade of the City of Chicago, Inc., a Delaware non-stock corporation and subsidiary of CBOT ("CBOT Sub") (as the same may be amended, the "CME Merger Agreement") whereby CBOT will be merged with and into CME Holdings, with CME Holdings surviving the merger (the "Proposed CME Merger") and (2) CBOT Stockholders to vote AGAINST any proposal to approve any adjournment or postponement of the Special Stockholders Meeting. CBOT Sub has scheduled a special meeting (the "Special Members Meeting") of holders of Series B-1 and Series B-2 membership interests of CBOT Sub (the "CBOT Members") to be held on July 9, 2007, at the Union League Club of Chicago, 65 West Jackson Boulevard, Chicago, Illinois at 2:30 p.m. Chicago Time. Under the rules of the exchange of CBOT Sub, CBOT Members are not permitted to delegate to any other person the voting rights associated with their membership interests (other than a person designated as a proxy by CBOT Sub in connection with any annual or special meeting of the membership of CBOT Sub). Therefore, ICE is not soliciting proxies from the CBOT Members in connection with the Special Members Meeting but ICE urges the CBOT Members to vote AGAINST the proposals to approve the repurchase of CBOT's Class B common stock and to effect an Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws of CBOT Sub (collectively, the "CBOT Class B Approvals"). ICE has provided in this Proxy Statement instructions for the CBOT Members to vote AGAINST the CBOT Class B Approvals and to revoke any prior proxy they may have submitted to CBOT in connection with the Special Members Meeting. CBOT has set May 29, 2007 as the record date for determining those CBOT Stockholders who will be entitled to vote at the Special Stockholders Meeting and CBOT Sub has set May 29,

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2007 as the record date for determining those CBOT Members who will be entitled to vote at the Special Members Meeting (the Record Date ). The principal executive offices of CBOT and CBOT Sub are located at 141 West Jackson Boulevard, Chicago, Illinois 60604.

This Proxy Statement and the enclosed BLUE proxy card are first being distributed to CBOT Stockholders on or about June 1, 2007.

**WE ARE DISTRIBUTING THIS PROXY STATEMENT IN ORDER TO URGE CBOT STOCKHOLDERS TO VOTE AGAINST THE PROPOSED CME MERGER AND CBOT MEMBERS TO VOTE AGAINST THE CBOT CLASS B APPROVALS. THE CONSIDERATION TO BE PAID TO CBOT STOCKHOLDERS BY CME IN THE PROPOSED CME MERGER IS INADEQUATE AND THE ARRANGEMENTS TO BE MADE WITH RESPECT TO CBOT MEMBERS IN THE PROPOSED CME MERGER ARE UNSATISFACTORY, AND WE BELIEVE THAT A BETTER ALTERNATIVE EXISTS.**

On October 17, 2006, CBOT and CME announced that they had entered into a merger agreement (the Original Merger Agreement ) pursuant to which CBOT would be merged into CME, with each outstanding Share receiving 0.3006 of a share of CME Class A common stock, par value \$0 per share. On March 15, 2007, ICE publicly announced that it had made a proposal (the ICE Proposal ) to CBOT to acquire all of the outstanding Shares for a purchase price of 1.42 shares of ICE common stock, par value \$0.01 per share (the ICE Stock ) per Share. In the ICE Proposal, and through subsequent submissions to CBOT of a definitive form of merger agreement and related governance documents, ICE largely mirrored the non-financial terms of the Original Merger Agreement. On May 11, 2007, CBOT announced that its board of directors had concluded that the ICE Proposal was not superior to the Proposed CME Merger and entered into a revised CME Merger Agreement, pursuant to which the financial terms of the Proposed CME Merger continue to offer holders of Shares less merger consideration than the terms of the ICE Proposal. On May 30, 2007, ICE announced that it had entered into an agreement with the Chicago Board Options Exchange, Inc. ( CBOE ) (the CBOE Agreement ) pursuant to which ICE and CBOE would pay, following the completion of the merger of CBOT and ICE, to qualifying CBOT Members holding exercise rights in CBOE (the CBOE Exercise Rights ), \$500,000 to extinguish the CBOE Exercise Rights and to settle the outstanding litigation between CBOT and CBOE regarding the CBOE Exercise Rights. On June 11, 2007, ICE entered into an amendment to the CBOE Agreement in order to provide that, among other things, qualifying CBOT Members will be able to elect the form of consideration they prefer from among three alternatives: (1) all debt securities convertible into the shares of CBOE following its demutualization or other conversion event, up to a maximum of \$332.75 million in aggregate value; (2) all cash; or (3) all debt securities convertible into shares of the combined ICE/CBOT company, up to a maximum of \$332.75 in aggregate value. If the election of debt securities of either CBOE following its demutualization or other conversion event or the combined ICE/CBOT company exceeds these maximums, those electing debt securities will receive a pro rata share of the available debt securities, with the remainder of the consideration paid in cash. Additionally, as the total consideration of \$665.5 million, payable jointly by ICE and CBOE, will be divided by the number of CBOT Eligible Full Members (as defined below), each CBOE Exercise Right will be valued at a minimum of \$500,000 per Full Membership (as defined below). If fewer than 1,331 Full Memberships are assembled, the value of each would be greater than \$500,000.

On June 12, 2007, ICE publicly announced that it had revised the ICE Proposal to include the terms of the CBOE Agreement, as amended, and to confirm that it remained committed to acquiring all of the Shares on the terms set out in the ICE Proposal, as so revised, including the purchase price of 1.42 shares of ICE Stock per Share. The revised ICE Proposal provides that a CBOT Stockholder will have the right, with respect to each Share held, to elect to receive merger consideration consisting of either cash or shares of ICE Stock, subject to proration to reflect a \$2,500,000,000 ceiling on total cash consideration. If CBOT Stockholders make valid elections to receive more than \$2,500,000,000 in cash, those CBOT Stockholders electing to receive cash consideration will have the cash form of consideration proportionately reduced and will receive a portion of their consideration in ICE Stock, despite their

election. On June 14, 2007, CBOT and CME announced that they had further amended the CME Merger Agreement to provide for a one-time cash dividend of \$9.14 per Share, an opportunity for the holders of CBOE Exercise Rights to elect (1) to continue as class members in the outstanding litigation between CBOE and CBOT and to receive a guarantee of up to a

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\$250,000 payment or (2) to sell their CBOE Exercise Rights to CBOT for \$250,000 payable following the effective time of the Proposed CME Merger, elimination of the \$15 million cap on out-of-pocket costs incurred with respect to CME's obligations to prosecute the CBOE Exercise Rights litigation and a three-year extension of the period during which CBOT-designated directors on the combined company's board of directors would have veto authority over rule changes (including changes to member fees) to the 2012 Annual Meeting of Stockholders. Based upon closing prices as of June 14, 2007, the ICE Proposal had a value of \$219.55 per Share, or approximately \$11.6 billion in the aggregate, which represented a 9.4% premium to the value of the Proposed CME Merger as of such date, after taking into account the one-time \$9.14 cash dividend announced on June 14, 2007, and a 63.2% premium over CBOT's share price on October 16, 2006, the day before the announcement of the Proposed CME Merger. We are confident that the CBOT Stockholders and CBOT Members recognize that the ICE Proposal is superior to the Proposed CME Merger, and are soliciting proxies in opposition to the Proposed CME Merger to allow the CBOT Stockholders and CBOT Members the opportunity to consider the ICE Proposal. As set forth in ICE's letter to CBOT dated June 12, 2007, the ICE Proposal is nonbinding at this time, but ICE has indicated to CBOT its intention to submit a binding ICE Proposal to CBOT prior to the Special Stockholders Meeting and the Special Members Meeting.

**WE ARE NOT ASKING YOU TO VOTE ON OR APPROVE THE ICE PROPOSAL AT THIS TIME. HOWEVER, IF THE CME MERGER IS APPROVED, YOU WILL LOSE THE OPPORTUNITY TO CONSIDER OUR FINANCIALLY SUPERIOR PROPOSAL OR TO CONSIDER ANY OTHER FINANCIALLY SUPERIOR OPTIONS THAT MAY BE AVAILABLE TO CBOT. A VOTE AGAINST THE PROPOSED CME MERGER AND AGAINST THE PROPOSED CBOT CLASS B APPROVALS WILL SEND A CLEAR MESSAGE TO CBOT'S BOARD OF DIRECTORS THAT IT SHOULD GIVE ADDITIONAL CONSIDERATION TO THE ICE PROPOSAL.**

**EVEN IF YOU HAVE ALREADY SENT A PROXY CARD TO CBOT OR TO CBOT SUB, YOU HAVE EVERY RIGHT TO CHANGE YOUR VOTE. ONLY YOUR LATEST-DATED PROXY COUNTS. VOTE AGAINST THE PROPOSED CME MERGER BY VOTING AGAINST EACH PROPOSAL TO BE CONSIDERED AT THE SPECIAL STOCKHOLDERS MEETING AND AGAINST EACH PROPOSAL TO BE CONSIDERED AT THE SPECIAL MEMBERS MEETING.**

**INSTRUCTIONS FOR CBOT STOCKHOLDERS.** CBOT STOCKHOLDERS CAN VOTE OVER THE INTERNET OR PHONE BY FOLLOWING THE INSTRUCTIONS ON THE ENCLOSED PROXY OR BY SIGNING, DATING AND RETURNING THE ENCLOSED BLUE PROXY CARD TO US IN THE ENCLOSED POSTAGE PAID ENVELOPE AS SOON AS POSSIBLE. PLEASE NOTE THAT TO VOTE BY INTERNET OR PHONE YOU WILL NEED TO HAVE YOUR PROXY CARD AVAILABLE, AS YOU WILL NEED THE INDIVIDUAL CONTROL NUMBER ASSIGNED TO YOU AND APPEARING ON EACH CARD. SIGNING, DATING AND RETURNING THE BLUE PROXY CARD WILL REVOKE ANY VOTE YOU HAVE PREVIOUSLY MADE. IF YOU HAVE ALREADY VOTED TO APPROVE THE PROPOSED CME MERGER, YOU CAN ALSO REVOKE YOUR VOTE BY VOTING AGAINST ON ANOTHER PROXY CARD DELIVERED TO US OR TO CBOT OR BY VOTING AGAINST BY USING THE INSTRUCTIONS ON YOUR PROXY CARDS TO VOTE BY TELEPHONE OR INTERNET.

**INSTRUCTIONS FOR CBOT MEMBERS.** IF YOU HAVE ALREADY VOTED TO APPROVE THE CBOT CLASS B APPROVALS, YOU CAN CHANGE YOUR VOTE AT ANY TIME BEFORE YOUR PROXY IS VOTED AT THE SPECIAL MEMBERS MEETING. IF YOU ARE THE RECORD HOLDER OF YOUR MEMBERSHIP INTERESTS, YOU CAN DO THIS IN ONE OF THREE WAYS. FIRST, YOU CAN SEND CBOT A WRITTEN NOTICE STATING THAT YOU WOULD LIKE TO REVOKE YOUR PROXY. SECOND, YOU CAN COMPLETE AND SUBMIT A NEW VALID PROXY BEARING A LATER DATE BY MAIL OR BY FOLLOWING THE TELEPHONE OR INTERNET VOTING INSTRUCTION PROVIDED BY CBOT. THIRD, YOU CAN ATTEND THE SPECIAL MEMBERS MEETING AND VOTE IN PERSON. IF YOU CHOOSE TO



SEND A WRITTEN NOTICE OR TO MAIL A NEW PROXY, YOU MUST SUBMIT YOUR NOTICE OF REVOCATION OR NEW PROXY TO CBOT C/O GEORGESON INC., WALL STREET STATION, P.O. BOX 1100, NEW YORK, NY 10269-0646, AND IT MUST BE RECEIVED PRIOR TO THE SPECIAL MEMBERS MEETING.

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IF YOU NEED ASSISTANCE OR HAVE ANY QUESTIONS REGARDING THE DELIVERY OF YOUR BLUE PROXY CARD OR HOW TO REVOKE AN EARLIER VOTE, PLEASE CONTACT INNISFREE M&A INC. ( INNISFREE ), WHICH IS ASSISTING ICE IN THIS SOLICITATION, AT (877) 800-5187.

THE ICE PROPOSAL MAY, AT A LATER DATE, BECOME THE SUBJECT OF A REGISTRATION STATEMENT (THE REGISTRATION STATEMENT ) FILED WITH THE SECURITIES AND EXCHANGE COMMISSION (THE SEC ). CBOT STOCKHOLDERS AND CBOT MEMBERS ARE ADVISED TO READ THE REGISTRATION STATEMENT AND ALL OTHER APPLICABLE DOCUMENTS IF AND WHEN THEY BECOME AVAILABLE BECAUSE THEY WILL INCLUDE IMPORTANT INFORMATION. CBOT STOCKHOLDERS AND CBOT MEMBERS MAY OBTAIN A FREE COPY OF ANY DOCUMENTS FILED BY ICE WITH THE SEC AT THE SEC S WEBSITE ([www.sec.gov](http://www.sec.gov)) OR BY DIRECTING SUCH REQUESTS TO INNISFREE, 501 MADISON AVENUE, NEW YORK, NEW YORK 10022, AT (877) 800-5187.

**REASONS TO VOTE AGAINST THE PROPOSED CME MERGER**

ICE is soliciting proxies from CBOT Stockholders in opposition to the Proposed CME Merger and specifically AGAINST the proposal to adopt the CME Merger Agreement and to approve the Proposed CME Merger and ICE is urging CBOT Members to vote AGAINST the proposal to adopt the CBOT Class B Approvals. ICE urges all CBOT Stockholders to vote AGAINST the Proposed CME Merger and all CBOT Members to vote AGAINST the CBOT Class B Approvals for the following reasons:

**A vote AGAINST the Proposed CME Merger preserves the opportunity of CBOT Stockholders to receive the significant premium for their Shares contemplated by the ICE Proposal which, if consummated, provides significantly greater financial value than the Proposed CME Merger.**

**We believe that a combination of ICE and CBOT is superior to the Proposed CME Merger and would provide substantial benefit to the CBOT Stockholders and the CBOT Members, including, among other factors, the following:**

*Higher Current Value, Reflective of the True Value of CBOT.* The ICE Proposal would provide CBOT Stockholders an opportunity to realize a significant premium for their Shares upon consummation of the transactions contemplated by the ICE Proposal over the consideration to be paid pursuant to the Proposed CME Merger based upon the recent trading prices of the common stock of each of ICE, CME and CBOT. Based upon closing prices as of June 14, 2007, the ICE Proposal had a value of \$219.55 per Share, or approximately \$11.6 billion in the aggregate, which represented a 9.4% premium to the value of the Proposed CME Merger as of such date, after taking into account the one-time \$9.14 cash dividend announced on June 14, 2007, and a 63.2% premium over CBOT s share price on October 16, 2006, the day before the announcement of the Proposed CME Merger.

*The implied value of the ICE Proposal has remained at a consistent, meaningful premium to the implied value of the original CME proposal and the revised, increased CME proposal.* Since March 15, 2007, the implied value of the ICE Proposal has always exceeded the value of the Proposed CME Merger. The chart below compares the implied value of the ICE Proposal to the implied value of both CME s original proposal and its revised proposal.



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*Opportunity to Share in Future Growth.* Under the ICE Proposal, CBOT Stockholders would continue to own a greater share of the combined company than they would own after the Proposed CME Merger such that, in addition to receiving a premium, they would participate in the significant strategic and financial benefits of the combination. Specifically, ICE estimates transaction benefits of at least \$250 million annually on a pre-tax, run-rate basis upon the full integration of ICE and CBOT. In addition to identified expense rationalization and the revenue growth opportunities available to the combined company, significant clearing benefits also exist as ICE could provide a fully operational clearing solution for CBOT's products upon termination of CBOT's existing clearing agreement with CME in January 2009. Accordingly, ICE believes the combination would be accretive to cash earnings per share within 18 months of closing.

*Strong Management.* A combined ICE/CBOT would be run by a strong and innovative management team combining the best elements of ICE and CBOT's current management. With such a management team running the combined companies, opportunities for future growth and innovation will be strong.

**We believe that ICE can successfully integrate the technology and clearing operations of CBOT by the end of 2008 and ICE strongly disagrees with CBOT's board of directors' assessment of the risks related to integration.**

*Technology Base.* ICE's business is based on electronic trading, which in addition to competition from CME Globex, London International Financial Futures and Options Exchange (also known as LIFFE) and other exchanges has required that ICE maintain a leading technology platform. ICE's technology platform has scaled from over-the-counter products to listed futures and from energy into soft commodities, while at the same time improving performance.

*Experience in Successfully Integrating Other Trading Platforms.* ICE has a clear and readily achievable plan to migrate CBOT's clearing and technology within 18 months. Based on ICE's previous experience successfully integrating both the International Petroleum Exchange ( IPE ) and the Board of Trade of the City of New York, Inc. ( NYBOT ), as well as the fact that the CME was able to migrate clearing for some of CBOT's products in approximately 10 months in 2003, ICE is confident that it can integrate CBOT's technology and clearing operations by January 2009, which is when CBOT's existing clearing agreement with CME could be terminated. In addition, unlike in the Proposed CME Merger, most of CBOT's management and employees will remain in place under the ICE Proposal and will be able to assist in implementing the integration of CBOT's operations.

*Flexibility to Extend Technology Contracts.* ICE is confident that it could migrate CBOT's clearing and technology within 18 months. However, ICE recognizes that the termination dates for CBOT's outsourced technology and clearing services contracts may not align ideally for purposes of ICE's planned clearing and technology migration in January 2009, and that therefore some additional

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flexibility in terms of extending one or both of CBOT's outsourced technology contract or the CME clearing agreement may be desirable. We understand that CBOT has the right to extend the CME clearing agreement for a six month period beyond the first termination date in January 2009 if CBOT is unable to engage another entity prepared and able to provide comparable clearing services on commercially reasonable terms. Consequently, in the worst case, the combined company may have access to clearing services for approximately 24 months from July 9, 2007. In addition, ICE has recently held discussions with senior management of NYSE Euronext, the parent company of AEMS, the company that provides outsourced technology services to CBOT. Based on these discussions, ICE believes that NYSE Euronext would be prepared to extend CBOT's outsourced technology agreement, if necessary, on commercially reasonable terms for the period reasonably required to migrate CBOT's trading platform and CBOT's clearing onto ICE platforms.

**The ICE Proposal provides an opportunity for CBOT Members who hold the required interests to realize a minimum of \$500,000 in value for each of their CBOE Exercise Rights compared to the risk that the CBOE Exercise Rights may be extinguished for no consideration under the Proposed CME Merger and may be subject to a lengthy battle in court to determine the value of the CBOE Exercise Rights, if any.**

In contemplation of a merger between ICE and CBOT, ICE has entered into the CBOE Agreement, as amended, which provides for total consideration of \$665.5 million to full members of CBOT Sub who hold the required interests (each such full member, a CBOT Eligible Full Member) for the loss of the CBOE Exercise Rights. The consideration to CBOT Eligible Full Members who hold the requisite interests will be paid equally by ICE and CBOE, with each of ICE and CBOE contributing \$332.75 million. The consideration of \$665.5 million will be divided by the number of CBOT Eligible Full Members possessing the required interests (as described below), as of the consideration record date. Accordingly, each CBOE Exercise Right will be valued at a minimum of \$500,000 per Full Membership (as defined below), with the final value of each CBOE Exercise Right being determined by the number of Full Memberships assembled. If fewer than 1,331 Full Memberships are assembled, the value of each would be greater than \$500,000.

CBOT Eligible Full Members will have the flexibility to elect the form of consideration they prefer among the following three alternatives: (1) all debt securities convertible into the shares of CBOE following its demutualization or other conversion event; (2) all cash; or (3) all debt securities convertible into shares of the combined ICE/CBOT company. These choices are subject to a maximum of \$332.75 million in aggregate value of debt securities convertible into shares of the combined ICE/CBOT company and a maximum of \$332.75 million in aggregate value of debt securities convertible into shares of CBOE following its demutualization or other conversion event. If CBOT Eligible Full Members elect debt securities of either CBOE following its demutualization or other conversion event or the combined ICE/CBOT company that, in the aggregate, exceed these maximums, those electing the debt securities will receive a pro rata share of the available debt securities, with the remainder of the consideration paid in cash.

Although CME has agreed, under the terms of the Proposed CME Merger, to use commercially reasonable efforts to protect the CBOE Exercise Rights and to pay holders of CBOE Exercise Rights who elect to continue as class members in the litigation a guaranteed minimum \$250,000 payment per CBOE Exercise Right even if CBOE prevails in the litigation, the Proposed CME Merger does not offer qualifying CBOT Members any assurance that such CBOT Members will receive any consideration in excess of \$250,000 (or, if they do, the amount). Allowing a court to determine the value of the CBOE Exercise Rights may take years, will be costly to all parties, will distract management, and may ultimately result in a decision that provides little or no value for the CBOE Exercise Rights. In addition, CBOE has taken the position that the CBOE Exercise Rights would be extinguished under the Proposed CME Merger with no consideration being paid to the holders of the CBOE Exercise Rights, and CBOE has filed a rule application with the SEC asking for a

confirmation of this interpretation. Under the terms of the Proposed CME Merger, holders who elect to sell their CBOE Exercise Rights to CBOT in

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connection with the merger would receive only \$250,000 in cash as compared to the \$500,000 minimum value that would be provided under the CBOE Agreement contained in the ICE Proposal.

In addition to the consideration offered for the CBOE Exercise Rights, under the ICE Proposal, CBOT Members who may have foregone selling Shares in order to retain the interest required to exercise a CBOE Exercise Right would be free to liquidate their ownership of Shares, subject to any Share ownership requirements associated with their clearing relationship(s). Under the ICE Proposal, CBOT Members could elect to receive cash consideration or sell shares of ICE Stock received in the merger with ICE, as there would no longer be a need to retain the Shares in connection with the CBOE Exercise Rights. In contrast, under the Proposed CME Merger, holders of CBOE Exercise Rights who elect to continue as class members in the litigation would be required to continue to hold Shares in connection with the CBOE Exercise Rights.

To be eligible to receive the CBOE Exercise Rights consideration, a CBOT Eligible Full Member needs to possess the required interests to exercise a CBOE Exercise Right on the record date established by CBOT with respect to the member meeting of CBOT held for the purpose of voting on the ICE/CBOT merger. These interests are comprised of the following: (1) a Class B, Series B-1 membership in CBOT; (2) 27,338 Shares; and (3) one CBOE Exercise Right privilege ( ERP ) (the combination of these three components results in, a Full Membership ). As used in this Proxy Statement, the term possess includes possession by ownership, lease, or, in the case of Shares, by pledge or assignment relating to such Shares whereunder the owner of such Shares is precluded from selling or transferring them during the term of such pledge or assignment agreement.

**The ICE Proposal preserves and enhances CBOT Member rights and privileges to a greater extent than the CME transaction.**

The ICE Proposal includes member rights-related provisions that are substantially similar to those contained in the definitive documents for the Proposed CME Merger, except that instead of receiving rights to trade all new products listed for trading on CME, the ICE Proposal provides that CBOT Sub will be the exclusive platform for listing and trading all new U.S. grain products, U.S. interest rate products and U.S. equity indices (other than those published by Frank Russell or the New York Stock Exchange) and that neither ICE nor any of its subsidiaries would trade products that, as of the date of the ICE/CBOT merger agreement, are traded on the CBOT Sub s open outcry exchange or any electronic trading system maintained by CBOT Sub. In addition, in light of the agreement that ICE has reached with CBOE, there is no commitment to continue to litigate issues relating to the CBOE Exercise Rights.

The ICE Proposal also contemplates that holders of Series B-1 and B-2 membership interests would also benefit from pricing protections on trading fees as follows: (1) prior to the 2011 Annual Meeting of Stockholders, CBOT Sub exchange fees for holders of Series B-1 and B-2 membership interests would generally not increase from current levels, (2) at least until the 2014 Annual Meeting of Stockholders of the combined company, holders of Series B-1 and B-2 membership interests would generally benefit from discounts of 50% or more from the lowest exchange fees available to non-members to the extent that such a discount of 50% or more is in effect with respect to the applicable products as of the date the ICE/CBOT merger agreement is executed, and (3) prior to the 2014 Annual Meeting of Stockholders, CBOT generally will not charge any member an exchange fee lower than that charged to B-1 and B-2 members. In contrast, the Proposed CME Merger would only protect CBOT Member pricing to the extent a proposed rule change is vetoed by the CBOT designees on the combined company board of directors prior to 2012 and only if the rule change would materially impair the business opportunities of CBOT members.

**ICE Stock is a superior and highly liquid investment vehicle, having produced significant returns to ICE stockholders.**

*Stronger Historic Stock Performance.* ICE has demonstrated stronger stock price performance and delivered more attractive returns to its stockholders than CME. The value of ICE Stock has increased



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325.3% compared with growth in the value of the Shares of 118.4% and in CME shares of 49.0% over the period from January 1, 2006 to June 14, 2007. In addition, from January 1, 2007 to June 14, 2007, the value of ICE Stock has increased 43.3% compared with growth in the value of CME shares of 7.4%.

*Significant Liquidity.* ICE Stock is highly liquid, with average daily traded volumes in excess of \$590 million, from January 1, 2007 to June 14, 2007 compared with \$381 million average daily traded volumes, from January 1, 2007 to June 14, 2007 for the CME, providing significant opportunity for recipients of ICE Stock to monetize or divest their holdings with a potentially lower market impact.

**A vote AGAINST the Proposed CME Merger preserves the heritage of CBOT.**

The Proposed CME Merger would result in the disappearance of CBOT's brand and expertise. Specifically, the Proposed CME Merger would result in CME's current management being the management of the combined CME/CBOT company.

In contrast, the ICE Proposal recognizes that, for over 160 years, CBOT has been a major Chicago institution and has anchored Chicago's position as one of the world's leading financial centers. Specifically, the ICE Proposal would result in the combined ICE/CBOT company:

being managed by a combined management team comprised of the best elements of each of ICE's and CBOT's current management teams;

remaining headquartered in CBOT's landmark Chicago headquarters; and

protecting and growing CBOT's metals complex.

ICE has a proven track record, with its acquisition and integration of NYBOT and ICE Futures (formerly known as International Petroleum Exchange, or IPE), of providing meaningful commitments to exchange members to maintain open-outcry markets and delivering exceptional organic growth through innovation and technology. ICE believes that a merger of ICE and CBOT is a unique opportunity to create a leading derivatives trading platform across a broad spectrum of futures and options products, incorporating ICE's and CBOT's complementary positions in agricultural commodities and leading capabilities in interest rates, energy, gold and silver, as well as other financial contracts such as equity indices and foreign exchange pairs. The combined ICE/CBOT would operate regulated exchanges in the U.S., Europe and Asia and also support the global over-the-counter derivatives market.

**A vote AGAINST the Proposed CME Merger sends a strong message to CBOT's board of directors that the Proposed CME Merger is inadequate and that you want the opportunity to accept the ICE Proposal.**

By voting against the Proposed CME Merger, CBOT Stockholders and CBOT Members can demonstrate their support for the proposed combination of CBOT and ICE and send a strong message to CBOT's board of directors that they want the opportunity to accept the value offered by the ICE Proposal. A vote against the Proposed CME Merger moves CBOT Stockholders and CBOT Members closer to being able to benefit from the ICE Proposal. As set forth in ICE's letter to CBOT dated June 12, 2007, the ICE Proposal is nonbinding at this time, but ICE has indicated to CBOT its intention to submit a binding proposal to CBOT on the same terms as the ICE Proposal (or on terms that ICE reasonably believes are more favorable to CBOT Stockholders and CBOT Members than the ICE Proposal) prior to the Special Stockholders Meeting and the Special Members Meeting.

While ICE is committed to helping CBOT Stockholders and CBOT Members realize the value of the ICE Proposal, the ICE Proposal cannot go forward unless the CBOT Stockholders do not approve the Proposed CME Merger, the CBOT Members do not approve the CBOT Class B Approvals or CBOT or CME otherwise terminates the CME Merger Agreement. A vote for the Proposed CME Merger could leave the CBOT Stockholders and CBOT Members without a viable alternative to the Proposed CME Merger because ICE cannot proceed with the ICE Proposal if the Proposed CME Merger is approved

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by the CBOT Stockholders and the CBOT Members. There can be no assurance as to the occurrence or timing of any termination of the CME Merger Agreement.

The ICE Proposal is subject to certain risks and uncertainties, including the following:

The ICE Proposal contemplates CBOT entering into a definitive merger agreement with ICE;

Similar to the CME Merger Agreement, the exchange ratio in the ICE Proposal is fixed, so the per Share value of the ICE Proposal will change as a result of changes in the market price of ICE Stock;

The synergies actually realized by the combined company as a result of transactions contemplated by the ICE Proposal may be less than expected, and the merger-related charges incurred by the combined company as a result of the proposed ICE/CBOT merger could be greater than estimated; and

The merger contemplated by the ICE Proposal will be subject to a number of conditions, including the approval of the stockholders of both CBOT and ICE, and with respect to the CBOT Class B Approvals by the CBOT Members, approval of the CBOE Agreement, as amended, by the CBOE members, and the receipt of all regulatory approvals required for completion of the proposed ICE/CBOT Merger. There can be no assurance that these approvals will be obtained in the time frame anticipated or can be obtained without unduly burdensome conditions or restrictions.

CBOT stockholders should also consider the risks that may be associated with an investment in ICE Stock and with the transaction contemplated by the ICE Proposal. These factors are set forth in the Forward-Looking Statements section of this Proxy Statement and will be described in more detail in the Registration Statement that will be filed with the SEC if we enter into a merger agreement with CBOT. Once the Registration Statement is filed, CBOT Stockholders and CBOT Members may obtain a copy of the Registration Statement free of charge at the SEC's website ([www.sec.gov](http://www.sec.gov)) or by directing a request to ICE at 2100 RiverEdge Parkway, Suite 500, Atlanta, Georgia 30328, Attn: Investor Relations or by email at [ir@theice.com](mailto:ir@theice.com).

We are confident that CBOT Stockholders and CBOT Members recognize that the ICE Proposal is superior to the Proposed CME Merger. Information with respect to the range of closing sale prices for the Shares for certain dates and periods is set forth in the Joint Proxy Statement/Prospectus included in the Registration Statement on Form S-4 filed by CME with the SEC on December 21, 2006, as most recently amended on May 25, 2007 (the CME/CBOT S-4 ). ICE urges CBOT Stockholders and CBOT Members to obtain a current market quotation for the Shares.

**INSTRUCTIONS FOR CBOT STOCKHOLDERS.** CBOT STOCKHOLDERS CAN VOTE OVER THE INTERNET OR PHONE BY FOLLOWING THE INSTRUCTIONS ON THE ENCLOSED PROXY OR BY SIGNING, DATING AND RETURNING THE ENCLOSED BLUE PROXY CARD TO US IN THE ENCLOSED POSTAGE PAID ENVELOPE AS SOON AS POSSIBLE. PLEASE NOTE THAT TO VOTE BY INTERNET OR PHONE YOU WILL NEED TO HAVE YOUR PROXY CARD AVAILABLE, AS YOU WILL NEED THE INDIVIDUAL CONTROL NUMBER ASSIGNED TO YOU AND APPEARING ON EACH CARD. SIGNING, DATING AND RETURNING THE BLUE PROXY CARD WILL REVOKE ANY VOTE YOU HAVE PREVIOUSLY MADE. IF YOU HAVE ALREADY VOTED TO APPROVE THE PROPOSED CME MERGER, YOU CAN ALSO REVOKE YOUR VOTE BY VOTING AGAINST ON ANOTHER PROXY CARD DELIVERED TO US OR TO CBOT OR BY VOTING AGAINST BY USING THE INSTRUCTIONS ON YOUR PROXY CARDS TO VOTE BY TELEPHONE OR INTERNET.

**INSTRUCTIONS FOR CBOT MEMBERS.** IF YOU HAVE ALREADY VOTED TO APPROVE THE CBOT CLASS B APPROVALS, YOU CAN CHANGE YOUR VOTE AT ANY TIME BEFORE YOUR PROXY IS VOTED AT THE SPECIAL MEMBERS MEETING. IF YOU ARE THE RECORD HOLDER OF YOUR MEMBERSHIP INTERESTS, YOU CAN DO THIS IN ONE OF THREE WAYS. FIRST, YOU CAN SEND CBOT A WRITTEN NOTICE STATING THAT YOU WOULD LIKE TO REVOKE YOUR PROXY.

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SECOND, YOU CAN COMPLETE AND SUBMIT A NEW VALID PROXY BEARING A LATER DATE BY MAIL OR BY FOLLOWING THE TELEPHONE OR INTERNET VOTING INSTRUCTION PROVIDED BY CBOT. THIRD, YOU CAN ATTEND THE SPECIAL MEMBERS MEETING AND VOTE IN PERSON. IF YOU CHOOSE TO SEND A WRITTEN NOTICE OR TO MAIL A NEW PROXY, YOU MUST SUBMIT YOUR NOTICE OF REVOCATION OR NEW PROXY TO CBOT C/O GEORGESON INC., WALL STREET STATION, P.O. BOX 1100, NEW YORK, NY 10269-0646, AND IT MUST BE RECEIVED PRIOR TO THE SPECIAL MEMBERS MEETING.

WE URGE YOU TO SEND THE CBOT'S BOARD OF DIRECTORS A CLEAR MESSAGE THAT A SALE TO CME FOR LESS PREMIUM IS NOT A DESIRED OUTCOME AND THAT THEY SHOULD TAKE ALL NECESSARY STEPS TO MAXIMIZE STOCKHOLDER VALUE. **VOTE AGAINST THE PROPOSED CME MERGER.**

**BACKGROUND OF THE SOLICITATION**

In recent years, the exchange industry in which ICE and CBOT operate has been experiencing a period of consolidations and strategic alliances. The ICE board of directors continually reviews its results of operations and competitive position in its industry, as well as its strategic plans and alternatives. In particular, ICE has from time to time reviewed the possibility of various strategic alliances or commercial arrangements, including with CBOT, and the potential benefits such alliances or arrangements would provide to the companies and their stockholders.

On October 17, 2006, CBOT and CME announced that they had entered into the CME Merger Agreement. The registration statement on Form S-4 with respect to the Proposed CME Merger, which was originally filed on December 21, 2006 and amended most recently on February 26, 2007 (the "CME/CBOT S-4"), provides a summary of the events leading to CME and CBOT entering into the CME Merger Agreement.

On November 1, 2006, CBOT and CME made pre-merger notification filings with the U.S. Federal Trade Commission and U.S. Department of Justice ( "Department of Justice" ). On December 1, 2006, CBOT and CME each received a second request from the Antitrust Division of the Department of Justice seeking additional information regarding the Proposed CME Merger. On March 5, 2007, and May 14, 2007, ICE received civil investigative demands from the Department of Justice seeking information about the markets in which CME, CBOT and ICE conduct business.

On December 21, 2006, CME filed with the SEC the CME/CBOT S-4. On January 30, 2007, CME filed Amendment No. 1 to the CME/CBOT S-4. On February 20, 2007, CME filed Amendment No. 2 to the CME/CBOT S-4. On February 26, 2007, CME filed Amendment No. 3 to the CME/CBOT S-4. On March 2, 2007, CBOT filed its definitive proxy statement with respect to the Proposed CME Merger.

On March 15, 2007, ICE delivered a letter containing the ICE Proposal to the Chairman of CBOT's board of directors, the CBOT board of directors' Special Transaction Committee, CBOT's Chief Executive Officer, and to the Non-Exercise Right Members Committee. The letter ICE provided to CBOT is included in Annex A to this Proxy Statement.

On March 18, 2007, ICE, through its legal advisor, Sullivan & Cromwell LLP, provided CBOT's board of directors, its Special Transaction Committee, and its Non-Exercise Right Members Committee, with a draft merger agreement and related exhibits reflecting the terms of the ICE Proposal.

On March 19, 2007, the CBOT board of directors, after consultation with its legal and financial advisors, determined that the ICE Proposal was a bona fide written "Takeover Proposal" within the meaning of the CME Merger Agreement.

The CBOT board of directors authorized and directed its transaction committee and Special Transaction Committee to engage in discussions with, and provide information to, ICE in connection with the ICE Proposal.

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On March 20, 2007, CBOT and CBOT Sub announced that the special meetings of CBOT Stockholders and CBOT Members to vote on the CME Merger Agreement, which had been scheduled for April 4, 2007, had been postponed to give CBOT's board of directors, its Special Transaction Committee, and the CBOT Sub board of directors sufficient time to complete their review of the ICE Proposal.

On March 23, 2007, CBOT and ICE entered into a confidentiality agreement. CBOT's legal advisors then furnished to Sullivan & Cromwell LLP financial, operational and due diligence requests lists.

On March 25, 2007, CBOT and ICE commenced mutual due diligence and discussions regarding the ICE Proposal.

On March 26, 27 and 28, 2007, members of management and other employees of CBOT and ICE, together with each parties' respective legal and financial advisors, met and made presentations regarding various aspects of their respective businesses and the proposed combination, including finance and accounting projections for 2007 and 2008, potential synergies, clearing, technology and operations, marketing and human resources.

Through April 27, 2007, CBOT and ICE, through their managements and representatives, continued with various aspects of the ongoing due diligence review.

On April 11, 2007, CBOT announced that the special meetings of CBOT Stockholders and CBOT Members to vote on the CME Merger Agreement had been re-scheduled for July 9, 2007.

On April 20, 2007, ICE provided CBOT's board of directors and the CBOT board of directors' Special Transaction Committee with a letter which clarified certain aspects of the ICE Proposal, which included a revised draft merger agreement and exhibits. The April 20, 2007 letter is attached to [Annex B](#) of this Proxy Statement.

On April 27, 2007, ICE provided CBOT with a letter stating that ICE was confident the integration of the clearing and trading activities of ICE and CBOT could be accomplished within 18 months based on ICE's integration experience with NYBOT and IPE, CBOT's previous experience moving its clearing activities to CME and e-cbot, the fact that the integration would be performed by the combined company's personnel, and the ability of CBOT to extend the term of its clearing agreement with CME under certain circumstances. The April 27, 2007 letter is attached as [Annex C](#) to this Proxy Statement.

On May 1, 2007, representatives of CBOT requested that ICE representatives travel to Chicago to discuss the ICE Proposal by May 3, 2007. On May 3 and 4, a series of meetings were held in Chicago between ICE and CBOT and their respective representatives to discuss a number of proposed improvements to the ICE Proposal requested by CBOT.

On May 7, 2007, ICE provided CBOT with a letter outlining improvements to certain aspects of the ICE Proposal.

On May 11, 2007, CBOT and CME entered into Amendment No. 2 to the Agreement and Plan of Merger, dated as of October 17, 2006 and amended as of December 20, 2006, and CBOT announced that the CBOT board of directors had concluded that the ICE Proposal was not superior to the Proposed CME Merger.

On May 25, 2007, CME filed with the SEC a new registration statement on Form S-4, with respect to the Proposed CME Merger (the Revised CME/CBOT S-4).

ICE has worked hard, for some time, to arrive at an agreement to resolve a dispute that has existed between CBOT and CBOE relating to the CBOE Exercise Rights. On May 30, 2007, ICE announced that it had entered into the CBOE

Agreement with CBOE, which ICE believes solves the disagreement relating to the status of the CBOE Exercise Rights between CBOT and CBOE.

On June 5, 2007, CME filed Amendment No. 1 to the Revised CME/CBOT S-4.

On June 7, 2007, CBOT filed its definitive proxy statement with respect to the present CME Merger Agreement.



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On June 11, 2007, the Department of Justice announced that it had closed its investigation into the Proposed CME Merger. On June 11, 2007, ICE entered into an Amendment to the CBOE Agreement with CBOE.

On June 12, 2007, ICE publicly announced that it had resubmitted the ICE Proposal to the CBOT board of directors, its Special Transaction Committee and the Non-Exercise Right Members Committee, which included the CBOE Agreement, as amended, and confirmed that ICE remained committed to acquiring all of the Shares on the terms set out in the ICE Proposal, as so revised, including the purchase price of 1.42 shares of ICE Stock (subject to a cash election) for each Share. The June 12, 2007 letter is attached to Annex D of this Proxy Statement.

On June 14, 2007, CBOT and CME announced that they had further amended the CME Merger Agreement.

**CERTAIN INFORMATION CONCERNING THE PROPOSED CME MERGER**

At the Special Stockholders Meeting, the holders of record of CBOT's Shares at the close of business on the Record Date will vote on, among other things, whether to approve the Proposed CME Merger, and at the Special Members Meeting, the holders of record of CBOT Sub's Series B-1 and Series B-2 memberships at the close of business on the Record Date will vote on, among other things, whether to approve the CBOT Class B Approvals. According to the Revised CME/CBOT S-4, under the terms of the CME Merger Agreement, each outstanding Share (other than Shares owned by CME or CBOT or any of their respective wholly-owned subsidiaries) will be converted into the right to receive 0.35 shares of Class A common stock of CME. See also the cover page of this Proxy Statement for additional information regarding CME's proposal with respect to the CBOE Exercise Price. As a result of the Proposed CME Merger, CBOT Stockholders would end up owning approximately 34.6% of the combined company. The conditions to the consummation of the Proposed CME Merger include, among other things, the following: (1) the approval of the CME Merger Agreement by CBOT Stockholders, (2) the approval of the repurchase of CBOT's Class B common stock and an Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws of CBOT Sub by the Series B-1 and Series B-2 members of CBOT Sub, voting together as a single class in accordance with the terms of the existing Amended and Restated Certificate of Incorporation and Bylaws of CBOT Sub, and (3) the approval of the stockholders of CME. CME has also announced that following completion of the Proposed CME Merger, the surviving company would commence a cash tender offer for up to \$3.5 billion in common stock of the combined company at a fixed price of \$560 per share.

The CME Merger Agreement contains certain termination rights for CME and CBOT, and further provides that if the CME Merger Agreement is terminated under certain circumstances, CME or CBOT will be required to pay the other a termination fee of \$288 million and to reimburse the other for up to \$6.0 million of out-of-pocket expenses.

The CME Merger Agreement provides for the payment by CBOT to CME of \$288.0 million if the CME Merger Agreement is terminated in the following circumstances: (1) as a result of CBOT breaching in any material respect its obligations regarding solicitation of alternative transaction proposals; (2) subject to CME not exercising its stockholder vote option, if CBOT's board of directors (a) fails to authorize, approve or recommend the CME Merger Agreement to the CBOT Stockholders; (b) changes its recommendation to the CBOT Stockholders; or (c) fails to remain silent with respect to a third party tender offer or exchange offer or fails to recommend that CBOT Stockholders reject a tender offer or exchange offer or CBOT makes a change in recommendation (provided that in connection with the change in recommendation in response to a superior proposal CME does not exercise its stockholder vote option). Additionally, if the CME Merger Agreement is not completed by October 17, 2007 and a party has not obtained its required stockholder approval of the merger and related transactions, and in the case of CBOT, the required CBOT Class B Approvals, and, in each case, a takeover proposal involving 30% or more of the consolidated assets or capital stock of such party has been made or announced; then, if such party enters into or consummates the transactions contemplated by the takeover proposal within 12 months of termination of the CME

Merger Agreement, such party must pay a termination fee of \$288.0 million to the other party. If a party is required to pay a termination fee to the other

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party, such party must also reimburse the other party for its expenses, up to a maximum amount of \$6.0 million.

**WE ARE DISTRIBUTING THIS PROXY STATEMENT IN ORDER TO URGE CBOT STOCKHOLDERS TO VOTE AGAINST THE PROPOSED CME MERGER AND CBOT MEMBERS TO VOTE AGAINST THE CBOT CLASS B APPROVALS. THE CONSIDERATION TO BE PAID BY CME IN THE PROPOSED CME MERGER IS INADEQUATE, AND WE BELIEVE THAT BETTER ALTERNATIVES EXIST.**

**CERTAIN INFORMATION CONCERNING ICE**

ICE is a company incorporated under the laws of Delaware in the year 2000, with its principal executive offices located at 2100 RiverEdge Parkway, Suite 500, Atlanta, Georgia 30328. The telephone number of ICE is (770) 857-4700. ICE operates the leading global, electronic marketplace for trading both futures and OTC energy contracts and the leading soft commodity exchange. ICE's markets offer access to a range of contracts based on crude oil and refined products, natural gas, power and emissions, as well as soft commodities including cocoa, coffee, cotton, ethanol, orange juice, wood pulp and sugar, in addition to currency and index futures and options. Shares of ICE Stock are traded on the New York Stock Exchange under the symbol ICE and, as of the date of this Proxy Statement, ICE has a market capitalization of approximately \$10.9 billion. ICE and its subsidiaries have approximately 470 employees.

In addition to ICE, all of the directors and nominees for director identified in ICE's proxy statement for its 2007 annual meeting of stockholders filed with the SEC on March 30, 2007 may potentially be participants in the solicitation of proxies. The following officers and employees of ICE may also potentially be participants in the solicitation of proxies: Jeffrey C. Sprecher, Charles A. Vice, David S. Goone, Scott A. Hill, Edwin Marcial, Johnathan H. Short, Richard V. Spencer, Kelly L. Loeffler, Andrew J. Surdykowski, Thomas W. Farley and David J. Peniket. The business address, business telephone number and position or office of each participant is set forth in Schedule I hereto. Other than 1,000 Shares owned by ICE and 22 shares of CME Class A common stock owned by one ICE director, Charles R. Crisp, through a managed account, neither ICE nor any of the other potential participants in these proxy solicitations has any interest, direct or indirect, by securities holdings or otherwise, in CBOT or CME. None of the potential participants will receive any special compensation in connection with these proxy solicitations.

**OTHER PROPOSALS**

In addition to soliciting proxies to approve the Proposed CME Merger, CBOT's board of directors is also soliciting proxies for the Special Stockholders Meeting for a proposal to approve any adjournment or postponement of the Special Stockholders Meeting, including if necessary, to solicit additional proxies in favor of the adoption of the CME Merger Agreement and the approval of the Proposed CME Merger, and CBOT Sub's board of directors is also soliciting proxies for the Special Members Meeting with respect to a similar proposal for the CBOT Class B Approvals, in either case if there are not sufficient votes for that proposal (the Adjournment Proposals). Because the Adjournment Proposals are designed to facilitate the approval of the Proposed CME Merger and the CBOT Class B Approvals, ICE recommends voting AGAINST these proposals.

**INSTRUCTIONS FOR CBOT STOCKHOLDERS.** CBOT STOCKHOLDERS CAN VOTE OVER THE INTERNET OR PHONE BY FOLLOWING THE INSTRUCTIONS ON THE ENCLOSED PROXY OR BY SIGNING, DATING AND RETURNING THE ENCLOSED BLUE PROXY CARD TO US IN THE ENCLOSED POSTAGE PAID ENVELOPE AS SOON AS POSSIBLE. PLEASE NOTE THAT TO VOTE BY INTERNET OR PHONE YOU WILL NEED TO HAVE YOUR PROXY CARD AVAILABLE, AS YOU WILL NEED THE INDIVIDUAL CONTROL NUMBER ASSIGNED TO YOU AND APPEARING ON EACH CARD. SIGNING, DATING AND RETURNING THE BLUE PROXY CARD WILL REVOKE ANY VOTE YOU HAVE PREVIOUSLY MADE. IF YOU HAVE ALREADY VOTED TO APPROVE THE PROPOSED CME MERGER,

YOU CAN ALSO REVOKE YOUR VOTE BY VOTING AGAINST ON

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ANOTHER PROXY CARD DELIVERED TO US OR TO CBOT OR BY VOTING AGAINST BY USING THE INSTRUCTIONS ON YOUR PROXY CARDS TO VOTE BY TELEPHONE OR INTERNET.

**INSTRUCTIONS FOR CBOT MEMBERS.** IF YOU HAVE ALREADY VOTED TO APPROVE THE CBOT CLASS B APPROVALS, YOU CAN CHANGE YOUR VOTE AT ANY TIME BEFORE YOUR PROXY IS VOTED AT THE SPECIAL MEMBERS MEETING. IF YOU ARE THE RECORD HOLDER OF YOUR MEMBERSHIP INTERESTS, YOU CAN DO THIS IN ONE OF THREE WAYS. FIRST, YOU CAN SEND CBOT A WRITTEN NOTICE STATING THAT YOU WOULD LIKE TO REVOKE YOUR PROXY. SECOND, YOU CAN COMPLETE AND SUBMIT A NEW VALID PROXY BEARING A LATER DATE BY MAIL OR BY FOLLOWING THE TELEPHONE OR INTERNET VOTING INSTRUCTION PROVIDED BY CBOT. THIRD, YOU CAN ATTEND THE SPECIAL MEMBERS MEETING AND VOTE IN PERSON. IF YOU CHOOSE TO SEND A WRITTEN NOTICE OR TO MAIL A NEW PROXY, YOU MUST SUBMIT YOUR NOTICE OF REVOCATION OR NEW PROXY TO CBOT C/O GEORGESON INC., WALL STREET STATION, P.O. BOX 1100, NEW YORK, NY 10269-0646, AND IT MUST BE RECEIVED PRIOR TO THE SPECIAL MEMBERS MEETING.

Other than as set forth above, ICE is not currently aware of any other proposals to be brought before the Special Stockholders Meeting or the Special Members Meeting. Should other proposals be brought before the Special Stockholders Meeting, the persons named on the BLUE proxy card will abstain from voting on such proposals unless such proposals adversely affect the interests of ICE as determined by ICE in its sole discretion, in which event such persons will vote on such proposals in their discretion.

**VOTING PROCEDURES**

**Special Stockholders Meeting**

According to the Revised CME/CBOT S-4, as of the Record Date, there were 52,843,183 Shares entitled to vote at the Special Stockholders Meeting. Each holder of a Share as of the close of business on the Record Date will be entitled to one vote for each such Share.

Under CBOT's bylaws, the presence, in person or by proxy, of the holders of at least one-third of the total number of outstanding Shares as of the Record Date and entitled to vote at the Special Stockholders Meeting is necessary to constitute a quorum at the Special Stockholders Meeting. In accordance with the New York Stock Exchange rules, brokers and nominees who hold Shares in street-name for customers may not exercise their voting discretion with respect to the approval of the Proposed CME Merger or the Adjournment Proposal related thereto. Thus, absent specific instructions from the beneficial owner of such Shares, these Shares will be counted for purposes of determining whether a quorum is present. Brokers and nominees may vote such Shares with respect to the Adjournment Proposal but may not vote such Shares with respect to the adoption of the CME Merger Agreement and the approval of the Proposed CME Merger.

The adoption of the CME Merger Agreement and approval of the Proposed CME Merger requires approval of a majority of the total outstanding Shares. Therefore, abstentions and broker non-votes will have the same effect as a vote AGAINST the Proposed CME Merger.

The Adjournment Proposal requires the approval of a majority of all Shares present and voting at the Special Stockholders Meeting if a quorum is present. Abstentions will be treated as votes AGAINST the Adjournment Proposal but broker non-votes will be treated as votes not cast and will have no effect on the outcome of the Adjournment Proposal.

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CBOT stockholders (1) may vote **AGAINST** one or both of the proposals, (2) may abstain from voting on one or both of the proposals or (3) may vote for one or both of the proposals by marking the proper box on the **BLUE** proxy card and signing, dating and returning it promptly in the enclosed postage-paid envelope. If a CBOT Stockholder returns a **BLUE** proxy card that is signed, dated and not marked, that stockholder will be deemed to have voted **AGAINST** the adoption of the CME Merger Agreement and approval of the Proposed CME Merger and **AGAINST** the Adjournment Proposal. Only CBOT Stockholders (or their duly appointed proxies) of record on the Record Date are eligible to vote in person or submit a proxy.

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### **Special Members Meeting**

According to the Revised CME/CBOT S-4, as of the Record Date, there were 1,402 Series B-1 memberships and 812 Series B-2 memberships entitled to vote at the Special Members Meeting.

Each holder of a Series B-1 membership as of the close of business on the Record Date will be entitled to one vote for each Series B-1 membership held of record at the close of business on the Record Date, and each holder of a Series B-2 membership as of the close of business on the Record Date will be entitled to one-sixth of one vote for each Series B-2 membership held of record at the close of business on the Record Date.

In order for CBOT to satisfy its quorum requirements with respect to the Special Members Meeting, the presence, in person or by proxy, of the holders of Class B memberships representing at least one-third of the votes entitled to be cast on the matters to be acted upon at the Special Members Meeting is required. CBOT Members will be deemed to be present if they attend the meeting or submit a proxy card (that is not revoked) that is received at or prior to the Special Members Meeting.

The adoption of the repurchase of CBOT's Class B common stock (the "repurchase") requires the approval of a majority of the outstanding voting power of the CBOT Members' membership interests, voting together as a single class. Because the required vote of the CBOT Members' membership interests to approve the repurchase is based upon the outstanding voting power of the CBOT Members' membership interests, the failure by a CBOT Member to submit a proxy or to vote in person at the Special Members Meeting and abstentions will have the same effect as a vote **AGAINST** approval of the repurchase.

The affirmative vote of a majority of the votes cast by the CBOT Members' membership interests, voting together as a single class, must approve the adoption of the Amended and Restated Certificate of Incorporation (the "amendment"). Because the required vote of the CBOT Members' membership interests to approve the adoption of the amendment is based upon the voting power of membership interests actually voted, the failure by a CBOT Member to submit a proxy or vote in person at the Special Members Meeting will have no effect on the vote. However, an abstention will have the same effect as a vote **AGAINST** approval of the amendment.

The CBOT Members (1) may vote **AGAINST** one or more of the proposals, (2) may abstain from voting on one or more of the proposals or (3) may vote for one or more of the proposals.

**INSTRUCTIONS FOR CBOT MEMBERS. IF YOU HAVE ALREADY VOTED TO APPROVE THE CBOT CLASS B APPROVALS, YOU CAN CHANGE YOUR VOTE AT ANY TIME BEFORE YOUR PROXY IS VOTED AT THE SPECIAL MEMBERS MEETING. IF YOU ARE THE RECORD HOLDER OF YOUR MEMBERSHIP INTERESTS, YOU CAN DO THIS IN ONE OF THREE WAYS. FIRST, YOU CAN SEND CBOT A WRITTEN NOTICE STATING THAT YOU WOULD LIKE TO REVOKE YOUR PROXY. SECOND, YOU CAN COMPLETE AND SUBMIT A NEW VALID PROXY BEARING A LATER DATE BY MAIL OR BY FOLLOWING THE TELEPHONE OR INTERNET VOTING INSTRUCTION PROVIDED BY CBOT. THIRD, YOU CAN ATTEND THE SPECIAL MEMBERS MEETING AND VOTE IN PERSON. IF YOU CHOOSE TO SEND A WRITTEN NOTICE OR TO MAIL A NEW PROXY, YOU MUST SUBMIT YOUR NOTICE OF REVOCATION OR NEW PROXY TO CBOT C/O GEORGESON INC., WALL STREET STATION, P.O. BOX 1100, NEW YORK, NY 10269-0646, AND IT MUST BE RECEIVED PRIOR TO THE SPECIAL MEMBERS MEETING.**

### **Revocation of Proxy: Instructions for CBOT Stockholders**

CBOT STOCKHOLDERS MAY REVOKE THEIR PROXY AT ANY TIME PRIOR TO ITS EXERCISE BY ATTENDING THE SPECIAL STOCKHOLDERS MEETING AND VOTING IN PERSON, BY SUBMITTING A DULY EXECUTED, LATER DATED PROXY BY ONE OF THE METHODS PROVIDED ON THE PROXY CARD PROVIDED TO THEM OR BY SUBMITTING A WRITTEN NOTICE OF REVOCATION TO EITHER (A) ICE, C/O INNISFREE, 501 MADISON AVENUE, NEW YORK, NEW YORK 10022, OR (B) THE SECRETARY OF CBOT AT THE PRINCIPAL EXECUTIVE OFFICES OF CBOT AT 141 WEST JACKSON BOULEVARD, CHICAGO, ILLINOIS 60604. A REVOCATION MAY BE IN ANY WRITTEN FORM VALIDLY SIGNED BY THE RECORD HOLDER AS LONG AS IT CLEARLY STATES THAT THE



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PROXY PREVIOUSLY GIVEN IS NO LONGER EFFECTIVE. STOCKHOLDERS WHO HOLD THEIR SHARES IN A BANK OR BROKERAGE ACCOUNT WILL NEED TO NOTIFY THE PERSON RESPONSIBLE FOR THEIR ACCOUNT TO REVOKE OR WITHDRAW PREVIOUSLY GIVEN INSTRUCTIONS. WE REQUEST THAT A COPY OF ANY REVOCATION SENT TO CBOT OR ANY REVOCATION NOTIFICATION SENT TO THE PERSON RESPONSIBLE FOR A BANK OR BROKERAGE ACCOUNT ALSO BE SENT TO ICE, CARE OF INNISFREE, AT THE ADDRESS BELOW SO THAT ICE MAY MORE ACCURATELY DETERMINE IF AND WHEN PROXIES HAVE BEEN RECEIVED FROM THE HOLDERS OF RECORD ON THE RECORD DATE OF A MAJORITY OF CBOT'S SHARES. UNLESS REVOKED IN THE MANNER SET FORTH ABOVE, SUBJECT TO THE FOREGOING, DULY EXECUTED PROXIES IN THE FORM ENCLOSED WILL BE VOTED AT THE SPECIAL STOCKHOLDERS MEETING ON THE PROPOSED CME MERGER IN ACCORDANCE WITH YOUR INSTRUCTIONS. IN THE ABSENCE OF SUCH INSTRUCTIONS, SUCH PROXIES WILL BE VOTED AGAINST THE PROPOSED CME MERGER.

BY EXECUTING THE BLUE PROXY CARD YOU ARE AUTHORIZING THE PERSONS NAMED AS PROXIES TO REVOKE ALL PRIOR PROXIES ON YOUR BEHALF.

If you have any questions or require any assistance in voting your Share(s) or CBOT membership interest(s), please contact:

**501 Madison Avenue, 20th Floor  
New York, New York 10022  
Stockholders Call Toll Free: at (877) 800-5187  
Banks and Brokers Call Collect: (212) 750-5833**

**DISSENTERS RIGHTS**

CBOT Stockholders are not entitled to appraisal rights in connection with the Proposed CME Merger, nor will CBOT Stockholders be entitled to appraisal rights in connection with the ICE Proposal.