

I am writing to make my clients' objections to the merger known to the CFTC and to your division in particular. In that regard, I have annexed a pdf file of a complaint which we filed in New York State Supreme Court for New York County. This Complaint sets forth some of the historical and other reasons which render the proposed merger unfair to my clients and in derogation of their rights. Of particular concern to the CFTC should be the fact that the manner in which NYBOT and the merger addresses the rights of permit holders such as my clients is contrary to representations that were made to the CFTC in connection with the formation of NYBOT.

In addition, my clients are, in the main, a group of traders who make their living on the floor of the exchange. It is their belief that this merger will adversely affect the market and ultimately result in the shutting down of a market and trading floor that has been in existence since the 19th century. The rush with which NYBOT and ICE are proceeding and which they have apparently requested the CFTC to proceed is alarming and is indicative of the problems with the merger that they apparently seek to "gloss over".

Given the looming deadline for submission of comments/objections, we have submitted this abbreviated document along with our civil complaint. I am also writing to request an extension of time to make a more detailed submission as well as the opportunity to meet with you and others at the CFTC to further articulate my clients' concerns. I am out of the office until January 4, 2007, but I will try to reach you by telephone. You can also contact my son, Jeffrey Bernfeld, who is also a partner at my firm and is familiar with this matter.

Thank you for your time and consideration.

Very truly yours,

David B. Bernfeld

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