

- If price-time priority were in effect and the SBT DPM or LMM had a quote and one or more orders at the same price, any contacts executed as part of the SBT DPM/LMM's trade participation right would trade with the highest priority quote/order(s) of the SBT DPM or LMM.⁵⁵

- The trade participation right may not be in effect unless the public customer priority overlay is in effect in a priority sequence ahead of the trade participation right.⁵⁶ Thus, public customer orders at the best price would be executed before an SBT DPM or LMM trades by virtue of any trade participation right.

- If other priority overlays are in effect and designated as higher priorities than the SBT DPM or LMM trade participation right, the participation right would apply only to any remaining balance of an order after all higher priorities were satisfied.⁵⁷

D. States of Trading

1. Pre-Opening

The pre-opening state would last for some period of time (as determined by the appropriate SBT Committee) before the opening of the underlying security.⁵⁸ During this state, CBOE*direct* would accept quotes and orders but no trading would take place.⁵⁹ The System would disseminate information about resting orders in the SBT book that remained from the prior business day and any orders and quotes sent before the opening.⁶⁰ After the primary market for the underlying security disseminates the opening trade or the opening quote for the underlying security, the System would send a notice to SBT market makers with an appointment in that class who then may submit their

opening quotes.⁶¹ The SBT DPM or LMM for that option class would be required to submit opening quotes.⁶²

2. Opening

The SBT System would begin the opening procedure at a randomly selected time within a number of seconds after receiving the underlying security's opening price.⁶³ For some time after the notice of the underlying security's opening price is sent, the System would calculate and provide the expected opening price ("EOP") based on the current resting orders and quotes during an EOP period.⁶⁴ The length of the EOP period would be established by the appropriate SBT Trading Committee and would be no less than five seconds and no more than one minute.⁶⁵ After the EOP period, the System would enter a lock interval during which quotes and orders could be submitted but would not be included in the opening trade. The lock interval would be a period of time not to exceed four seconds. At this time, the SBT System would establish the opening price, which would be the "market clearing" price that would leave bids and offers that could not trade with each other.

The System would process the series of a class in random order.⁶⁶ The series of a class may not open all at the same time. The System would not open a series if: (1) There were no legal width market; (2) the opening price were not within a range determined by the appropriate SBT Trading Committee (e.g., the upper boundary of the acceptable range may be 125% of the highest quote offer and the lower boundary may be 75% of the lowest quote bid);⁶⁷ or (3) the opening trade would leave a market order imbalance.⁶⁸ If a series does not open,

the System would commence the RFQ process in an effort to alleviate the conditions that caused the series not to open.⁶⁹

As the opening price is determined by series, the System would change the product state of the series to "trading" and disseminate to OPRA and the SBT participants the opening quote and the opening trade price, if any.⁷⁰

3. Trading

During this state, the series would trade freely. All order types and quotes would be accepted, except for opening-only contingency orders.⁷¹

4. Trading Halts

CBOE will use the same criteria to halt trading on CBOE*direct* that they use to halt trading on CBOE's floor.⁷² In addition, the SBT System may be programmed (as determined by the appropriate SBT Trading Committee) to automatically halt trading with respect to an equity option if a trading halt has been declared for the underlying security in the primary market.⁷³ However, when the System is operated during an ETH session, there may not be a primary market trading the underlying security. In such cases, the appropriate SBT Trading Committee would determine in advance whether to have the System automatically halt trading with respect to the options if there is no primary market for the underlying security in the ETH session and if trading in the underlying security has been halted in another market trading the underlying security during an ETH session.⁷⁴ Whenever trading has been halted, trading may be resumed whenever two trading officials determine that a fair and orderly market may be maintained.⁷⁵

5. Closed

CBOE*direct* would change the state to "closed" at a pre-determined time depending on the closing time of the

⁵⁵ See CBOE rule 43.1(b)(3)(D).

⁵⁶ See CBOE rule 43.1(b)(3)(E).

⁵⁷ See CBOE rule 43.1(b)(3)(F).

⁵⁸ See CBOE rule 42.3(a). CBOE has represented that it would distribute an information circular indicating the pre-opening period of time that it establishes. June 21 conversation.

⁵⁹ See CBOE rule 42.2(a). However, spread orders and contingency orders (except for opening-only orders) would not participate in the opening or in the determination of the opening price. See CBOE rule 42.3(a). CBOE has represented that it would distribute an information circular indicating the pre-opening period of time that is established by the Exchange. June 21 conversation.

⁶⁰ See *id.* CBOE could determine to disseminate this information for free to any SBT trader interested in trading the product. Alternately, CBOE could determine to impose a fee for such information. In the latter case, the fee proposal would have to be filed with the Commission pursuant to section 19(b) of the Act, 15 U.S.C. 78s(b). Telephone conversation between Angelo Evangelou, Legal Division, CBOE, and Nancy Sanow and Michael Gaw, Division of Market Regulation, Commission, on October 23, 2002 ("October 23 conversation").

⁶¹ See CBOE rule 42.3(a).

⁶² See *id.* SBT standard market makers generally would not be required to provide opening quotes, except in the circumstances described in proposed CBOE rule 42.3(b).

⁶³ See CBOE rule 42.3(a). In the case of trading during an ETH session, the System could open the class without having received the underlying security's opening price. See *id.*

⁶⁴ See CBOE rule 42.3(c).

⁶⁵ See *id.* CBOE has represented that it would distribute an information circular indicating the period that is established by the Committee. June 21 conversation.

⁶⁶ See CBOE rule 42.3(d).

⁶⁷ CBOE has stated that this provision is designed to prevent orders that rest on the SBT book between sessions from being executed at a price far from the prevailing quote at the opening of the next session. Telephone call between Angelo Evangelou, Legal Division, CBOE, and Michael Gaw, Division of Market Regulation, Commission, on December 9, 2002. CBOE has represented that it would publicize the range set by the committee in an information circular. *Id.*

⁶⁸ See CBOE rule 42.3(f).

⁶⁹ See CBOE rule 42.3(g). The RFQ generated by the SBT System in this case would include size. The RFQs generated by the System in market and limit order processing also would include size. October 23 conversation.

⁷⁰ See CBOE rule 42.3(e).

⁷¹ See CBOE rule 42.2(c).

⁷² Specifically, CBOE rules 6.3, 6.3B, or 24.7 will apply to trading on CBOE*direct*. See Appendix A. Originally, CBOE proposed that new, different provisions would govern trading halts on the SBT System. In Amendment No. 4, CBOE deleted most of these proposed provisions and instead proposed to apply existing CBOE rule 24.7 to trading halts on CBOE*direct*.

⁷³ See CBOE rule 43.4(b). The System would send status alerts to OPRA for a product that is halted. See notice, *supra* note 4, 67 FR at 31025.

⁷⁴ See CBOE rule 43.4(b).

⁷⁵ See *id.*