

Depending on how a quote or order is modified, the quote or order could change priority position as follows:<sup>157</sup>

- If the price is changed, the changed side would lose priority position and would be placed behind all orders of the same type at the same price.
- If quantity of one side is changed, the unchanged side would retain its priority position.
- If the quantity of one side is decreased, that side would retain its priority position.
- If the quantity of one side is increased, that side would lose its priority position and would be placed behind all orders of the same type at the same price.

## 2. Time in Force of Orders/Quotes

The appropriate SBT Trading Committee would have the authority to determine which order types may be accepted at the various product states and session states.<sup>158</sup> Once the System is so enabled, customers would be able to specify that their day orders or good-'til-canceled orders are to be transferred between one CBOE trading session and the next, and they could determine to have their orders represented only during ETH sessions, only during RTH sessions, or carry over from one session to the next.<sup>159</sup>

## 3. Automatic Quote Regeneration

CBOEdirect eventually will allow an SBT market maker to regenerate its quote where the bid or offer to be regenerated is a defined number of ticks worse than the bid or offer that had been hit.<sup>160</sup> The market maker would pre-set the System with the number of ticks worse by which its quote would regenerate.<sup>161</sup>

If an SBT market maker has the System regenerate its quote and the regenerated quote could immediately execute against the same incoming order that traded against the original quote, that portion of the regenerated quote

equal to the original size executed against the market maker's original bid or offer would take priority over all other interest at the regenerated price, with respect to the balance of the incoming order, except in one circumstance. That circumstance would be if public customer priority was applicable to that option class and there were a public customer order at the same price as the regenerated bid or offer. The portion of a regenerated quote that is not executed would be placed in a priority position consistent with the time that the quote was regenerated.<sup>162</sup>

In Amendment No. 4, CBOE provided the following example to demonstrate the operation of the quote regeneration function:

*Assume that price-time priority is in effect, with the public customer priority overlaid. The System receives a market order to sell 50 contracts ("Incoming Order"). The best bid is MM A's \$3 bid for 20 contracts. The Incoming Order exhausts the \$3 bid. The next best bid is \$2.90 for 100 contracts consisting of MM B for 70 contracts, Customer A for 5 contracts, and MM A's regenerated quote for 25 contracts (its pre-determined regeneration size). The remaining 30 contracts of the Incoming Order would be filled as follows: 5 to the Customer, 20 to MM A, and 5 to MM B. After the Incoming Order is filled, the best bid would be 2.90 for 70 contracts with the following priority: MM B for 65 contracts and MM A for 5 contracts.*

## 4. Quote Risk Monitor Function

CBOE indicated that SBT market makers are exposed to certain risks not present in an open-outcry trading environment: an SBT market maker could have a large number of its quotes hit by a set of incoming orders within a few seconds. Thus, the SBT market maker could find itself taking on a large position before it had an opportunity to assess this position and possibly change its quotes.<sup>163</sup> CBOEdirect's quote risk monitor feature is intended to permit an SBT market maker to manage its risk by automatically deleting the market maker's quotes in a class when the System determines that trades against the market maker's quotes have reached a defined number of contracts within a defined period of time. An SBT market maker may configure the System to set these limits with respect to its own quotes. In determining whether to delete quotes pursuant to this feature, the System would consider only trades against the SBT market maker's resting quotes, not trades that the SBT market maker itself initiates by hitting a bid or taking an offer.<sup>164</sup>

## 5. Managing Message Traffic

The Exchange may set limits on the quote traffic that is sent to the SBT System to prevent the System from becoming overloaded. However, CBOE has noted that, to the extent that the Exchange allows for varying quote traffic limits by SBT traders, such limits shall be objectively determined and submitted to the Commission for approval pursuant to section 19(b) of the Exchange Act.<sup>165</sup>

In addition, the Exchange may limit the number of SBT market makers that may access the SBT System through an API (or the number of messages sent by market makers accessing the System through an API) to protect the integrity of the System.<sup>166</sup> Furthermore, the Exchange may impose restrictions on the use of a computer connected through an API if it believed that such restrictions were necessary to ensure the proper performance of the System.<sup>167</sup> CBOE has represented that these limitations would be solely for the purpose of protecting the integrity of the System and would not be used in a discriminatory or arbitrary fashion.<sup>168</sup>

CBOE has represented that it does not intend to allocate bandwidth to each SBT trader, and that the System would not programmatically limit the number of messages that an SBT trader may send.<sup>169</sup> To minimize the potential of a particular SBT trader to burden the System unnecessarily, CBOE has stated that it wishes to be able to: (1) specify the number of quotes over a certain time period that may be sent free by an SBT trader, or (2) impose a fee per message for sending a number that is clearly above the free number and for producing a ratio of quotes to trades over a certain time period that is higher than what would be considered a reasonable ratio.<sup>170</sup>

## J. Intermarket Price Protection

Non-broker-dealer market and marketable limit orders would not be automatically executed on CBOEdirect at prices inferior to the best bid or offer on another national securities exchange, as those best prices are identified in the System.<sup>171</sup> If there is a better quote on

<sup>157</sup> See CBOE rule 43.1(f).

<sup>158</sup> See CBOE rule 43.3(a). At the discretion of the appropriate SBT Trading Committee, and once the System is so enabled, any of the following order types may be accommodated on CBOEdirect: market orders, limit orders, cancel orders, cancel replace orders, day orders, good-for-session orders, good-'til-canceled orders, and contingency orders. See CBOE rule 43.2(a). See also *supra* notes 128 to 129 and accompanying text. CBOE has represented that it would issue an information circular regarding the types of orders that will be accommodated on CBOEdirect. February 20 conversation.

<sup>159</sup> See CBOE rule 43.3(b).

<sup>160</sup> See CBOE rule 44.5(b). The Exchange would determine the number of ticks below the original price at which the quote may be regenerated and publicize this determination in an information circular. December 5 conversation.

<sup>161</sup> See *id.*

<sup>162</sup> See CBOE rule 43.1(e).

<sup>163</sup> See Notice, *supra* note 4, 67 FR at 31040.

<sup>164</sup> See CBOE rule 44.5(c).

<sup>165</sup> See CBOE rule 44.5(d).

<sup>166</sup> See CBOE rule 44.6.

<sup>167</sup> See *id.*

<sup>168</sup> See notice, *supra* note 4, 67 FR at 31040–41.

<sup>169</sup> See notice, *supra* note 4, 67 FR at 31040.

<sup>170</sup> See *id.* Any proposal to charge such a fee would have filed with the Commission pursuant to section 19(b) of the Act, 15 U.S.C. 78s(b). See *infra* note to and accompanying text.

<sup>171</sup> See CBOE rules 43.7 and 43.8. The System would have access to the OPRA quote stream and be programmed not to automatically execute a trade in an options series if the System identifies a better