

advance of implementation via Regulatory Circular.

#### *DPM's Participation Entitlement*

By virtue of their performance of additional obligations, DPMs generally are entitled to receive a participation entitlement for transactions that occur at the DPM's quote.<sup>10</sup> If a DPM is eligible for an allocation pursuant to the operation of the Algorithm described above, its allocation shall be either:<sup>11</sup>

- (1) The greater of the amount it would be entitled to pursuant to the DPM participation right established pursuant to CBOE Rule 8.87 (and Regulatory Circulars issued thereunder) or the amount it would otherwise receive pursuant to the operation of the Algorithm described above; or
- (2) The amount it would be entitled to pursuant to the DPM participation right established pursuant to CBOE Rule 8.87 (and Regulatory Circulars issued thereunder).

The appropriate FPC shall determine which of the above two formulas will be applicable to all classes over which it has jurisdiction.<sup>12</sup> Each pronouncement regarding which formula to be used will be made via Regulatory Circular.

#### *B. Allocation of Orders Represented in the Trading Crowd*

This section governs the allocation of orders that are represented in the trading crowd by floor brokers (including DPMs acting as agent under CBOE Rule 8.85(b)).

#### *Priority of Orders in the Electronic Book*

As an initial matter, public customer orders in the electronic book have priority. Multiple public customer orders in the electronic book at the same price are ranked based on time priority. If a public customer order(s) in the electronic book matches, or is matched by, an oral bid or offer provided by a

member of the trading crowd, the public customer order(s) shall have priority and the balance of the order, if any, will be allocated in open outcry, as described below.

If pursuant to CBOE Rule 7.4(a) the appropriate FPC determines to allow broker-dealer orders to be placed in the electronic book, then for purposes of this rule, the cumulative number of broker-dealer orders in the electronic book at the best price shall be deemed one "book market participant" (or "BMP") regardless of the number of broker-dealer orders in the book. Any allocation due the broker-dealer orders in the electronic book by virtue of their being deemed a "book market participant" shall be distributed among each broker-dealer order comprising the BMP in accordance with UMA.

#### *Allocation*

The method for allocating orders that are represented in the trading crowd by floor brokers is dependent upon whether there are any book market participants quoting at the prevailing price.

1. *No BMP Present at the Prevailing Price.* If there is no BMP present at the prevailing price, allocation of open outcry orders shall be pursuant to existing CBOE Rule 6.45(a) and (b).

2. *BMP is Present at the Prevailing Price.* In an effort to ensure that BMPs receive at least partial allocations of orders received in open outcry, CBOE proposes to adopt an allocation rule that will limit market participants in the crowd to a predetermined percentage. If two or more bids (offers) represent the best price, priority shall continue to be afforded in the sequence in which the bids (offers) were made subject to the restriction that the first market participant to respond shall be entitled to 70% of the order. The second market participant to respond (if ascertainable) shall be entitled to 70% of the remainder of the order (*i.e.*, 70% of 30%). The balance of the order shall be apportioned equally among the remaining market participants bidding (offering) at the same price and the BMP. The portion allocated to the BMP shall be distributed amongst each book market participant pursuant to the allocation algorithm described in CBOE Rule 6.45A(a)(i)(B)(2) above.

If at any point the order in which market participants respond is not

ascertainable, the balance of the incoming order, if any, shall be apportioned equally among the remaining market participants bidding (offering) at the same price and, if applicable, the book market participant. If a market participant declines to accept any portion of the available contracts, any remaining contracts shall be apportioned equally among the other participants who bid (offered) at the best price (including the book market participant, if applicable) at the time the market was established until all contracts have been apportioned.

#### *Complex Order Exception*

The CBOE Hybrid System will continue to utilize the exception to the general priority rules for complex orders. As such, the Exchange incorporates existing Rule 6.45(e). CBOE, however, takes this opportunity to shorten it considerably. The revisions do not change the substance of the rule.

#### *C. Interaction of Market Participant's Quotes and/or Orders With Orders in Electronic Book*

Under proposed CBOE Rule 6.45A(c), market participants may also submit orders electronically to trade with orders in the electronic book. If only one market participant submits an electronic order or quote to trade with an order in the electronic book, that market participant shall be entitled to receive an allocation of the order in the electronic book up to the size of the market participant's order. If, however, more than one market participant submits an order to trade with the book, each market participant that submits an order or quote to buy (sell) an order in the electronic book within a period of time not to exceed 5 seconds<sup>13</sup> of the first market participant to submit an order ("N-second group") shall be entitled to receive an allocation of the order in the electronic book pursuant to the following allocation algorithm:

#### *Allocation Algorithm*

<sup>13</sup> This N-second period is configurable by the appropriate FPC but shall never exceed 5-seconds. Any reduction of this N-second period (or subsequent increase) shall be announced to the membership in advance of implementation via Regulatory Circular. Furthermore, this time period shall apply uniformly among all classes under the FPC's jurisdiction.

<sup>10</sup> Among the obligations, which are codified in CBOE Rule 8.85, are: The requirement to quote continuously, the obligation to make legal width markets; the obligation to book eligible orders; the requirement to represent orders routed to the PAR station; the obligation under Linkage to handle all inbound linkage orders and to send satisfaction orders on behalf of customer orders in CBOE's book.

<sup>11</sup> In either case, the DPM's entitlement cannot exceed the size of the DPM's quote.

<sup>12</sup> Due to a systems limitation, the Exchange initially will use method two and set the DPM's participation entitlement at the amount it would be entitled to pursuant to CBOE Rule 8.87 (and Regulatory Circulars issued thereunder).