Commodity Futures Trading Commission

§ 38.800

record of the proceeding. The record
must be one that is capable of being ac-
curately transcribed; however, it need
not be transcribed unless the tran-
script is requested by Commission staff
or the respondent, the decision is ap-
pealed pursuant to the rules of the des-
ignated contract market, or is re-
viewed by the Commission pursuant to
section 8c of the Act or part 9 of this
chapter. In all other instances a sum-
mary record of a hearing is permitted.

(b) [Reserved]

§ 38.708 Decisions.

Promptly following a hearing con-
ducted in accordance with § 38.707 of
this part, the disciplinary panel must
render a written decision based upon
the weight of the evidence contained in
the record of the proceeding and must
provide a copy to the respondent. The
decision must include:

(a) The notice of charges or a sum-
mary of the charges;
(b) The answer, if any, or a summary
of the answer;
(c) A summary of the evidence pro-
duced at the hearing or, where appro-
riate, incorporation by reference of
the investigation report;
(d) A statement of findings and con-
clusions with respect to each charge,
and a complete explanation of the evi-
dentary and other basis for such find-
ings and conclusions with respect to
each charge;
(e) An indication of each specific rule
that the respondent was found to have
violated; and
(f) A declaration of all sanctions im-
posed against the respondent, including
the basis for such sanctions and the ef-
tective date of such sanctions.

§ 38.709 Final decisions.

Each designated contract market
must establish rules setting forth when
a decision rendered pursuant to this
section will become the final decision
of such designated contract market.

§ 38.710 Disciplinary sanctions.

All disciplinary sanctions imposed by
a designated contract market or its
disciplinary panels must be commensu-
rate with the violations committed and
must be clearly sufficient to deter re-
cidivism or similar violations by other
market participants. All disciplinary
sanctions, including sanctions imposed
pursuant to an accepted settlement
offer, must take into account the re-
spondent’s disciplinary history. In the
event of demonstrated customer harm,
any disciplinary sanction must also in-
clude full customer restitution, except
where the amount of restitution, or to
whom it should be provided, cannot be
reasonably determined.

§ 38.711 Warning letters.

Where a rule violation is found to
have occurred, no more than one warn-
ing letter may be issued per rolling 12-
month period for the same violation.

§ 38.712 Additional sources for compli-
ance.

Applicants and designated contract
markets may refer to the guidance in
appendix B of this part to demonstrate
to the Commission compliance with
the requirements of § 38.700 of this part.

Subpart O—Dispute Resolution

SOURCE: 77 FR 36700, June 19, 2012, unless
otherwise noted.

§ 38.750 Core Principle 14.

The board of trade shall establish and
enforce rules regarding, and provide fa-
cilities for alternative dispute resolu-
tion as appropriate for, market partici-
pants and any market intermediaries.

§ 38.751 Additional sources for compli-
ance.

Applicants and designated contract
markets may refer to the guidance and
acceptable practices in appendix B of
this part to demonstrate to the Com-
misson compliance with the require-
ments of § 38.750 of this part.

Subpart P—Governance Fitness

Standards

SOURCE: 77 FR 36700, June 19, 2012, unless
otherwise noted.

§ 38.800 Core Principle 15.

The board of trade shall establish and
enforce appropriate fitness standards