

**DISCIPLINARY PROGRAM
RULE ENFORCEMENT REVIEW
OF THE
CBOT, CME, COMEX, AND NYMEX**



**Division of Market Oversight
November 21, 2014**

I. Rule Enforcement Review Scope

The Division of Market Oversight (“Division”) has conducted a rule enforcement review of the disciplinary program of the Chicago Board of Trade (“CBOT”), the Chicago Mercantile Exchange (“CME”), the Commodity Exchange, Inc. (“COMEX”), and the New York Mercantile Exchange, Inc. (“NYMEX”) (collectively, the “Exchanges”), wholly-owned subsidiaries of CME Group, Inc. (“CME Group”).¹ The Division’s review of the Exchanges’ disciplinary program covered the period from April 1, 2012 to March 31, 2013 (“target period”). The Division reviewed the Exchanges’ compliance with Core Principle 13 (*Disciplinary Procedures*)² under Section 5(d) of the Commodity Exchange Act, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010,³ and the Commission’s related regulations codified in §§ 38.700-712, which relate to an exchange’s disciplinary procedures.⁴

To evaluate the Exchanges’ disciplinary program, and their compliance with Core Principle 13 and Commission regulations §§ 38.700-712, Division staff interviewed compliance

¹ Rule enforcement reviews, and the resultant reports prepared by the Division, are intended to present an analysis of an exchange’s compliance capabilities during the period under review. Such reviews deal only with exchange programs directly addressed in the review and do not assess all programs, core principles, or Commission regulations. The Division’s analyses and conclusions are based, in large part, upon the Division’s evaluation of a sample of disciplinary case files and other exchange documents. This evaluation process, in some instances, identifies specific issues with particular exchange compliance programs or methods, but is not designed to uncover every instance where an exchange fails to effectively comply with the core principles or Commission regulations.

This report, and the analyses and conclusions herein, represent the view of the Division only, and do not necessarily represent the position or view of the Commission or of any other office or division of the Commission. The Division’s analyses and conclusions in this report are limited to the CBOT, CME, COMEX, and NYMEX.

² Core Principle 13 - Disciplinary Procedures: The board of trade shall establish and enforce disciplinary procedures that authorize the board of trade to discipline, suspend, or expel members or market participants that violate the rules of the board of trade, or similar methods for performing the same functions, including delegation of the functions to third parties.

³ Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376 (2010) (“Dodd-Frank Act”). Title VII of the Dodd-Frank Act became effective on July 16, 2011.

⁴ On May 10, 2012, the Commission issued its Final Rules, *Core Principles and Other Requirements for Designated Contract Markets*, 77 Fed. Reg. 36612 (June 19, 2012) (“New DCM Regulations”), which became effective during the target period on October 17, 2012, to codify rules in lieu of guidance and acceptable practices for certain core principles, including Core Principle 13. Because the New DCM Regulations were in effect for approximately half of the target period, the Division reviewed the Exchanges’ disciplinary program for compliance with the pre-existing guidance and acceptable practices as well as the New DCM Regulations, as applicable.

officials and staff from CME Group’s Market Regulation Department (“Market Regulation”), which provides compliance, enforcement, and other self-regulatory services to the Exchanges, pursuant to Regulatory Services Agreements. The Division also analyzed responsive documents produced by the Exchanges’ staff, including the following:

- disciplinary case logs and files;
- organizational charts and summaries of personnel and staffing;
- summaries of procedures designed to prevent conflicts of interest;
- minutes of disciplinary committee, Floor Conduct Committee, Board of Directors, Executive Committee, and Market Regulation Oversight Committee meetings held during the target period; and
- compliance procedures manuals and handbooks, disciplinary rules, and other overviews of Market Regulation’s disciplinary procedures.

The Division analyzed the Exchanges’ disciplinary program to determine whether the program is in compliance with the core principle and Commission regulations stated above, and whether there are any deficiencies or recommendations for the program. For purposes of this report, a *deficiency* is an area where the Division believes an exchange is not in compliance with a Commission regulation and must take corrective action and a *recommendation* concerns an area where the Division believes the exchange should improve its compliance program.⁵ As set forth below, the Division found that the Exchanges maintain experienced enforcement staff and a generally adequate disciplinary program to demonstrate compliance with Core Principle 13 and Commission regulations § 38.700 and §§ 38.702-712. With respect to Commission regulation §

⁵ The Division notes that Market Regulation is primarily responsible for administering the disciplinary program of each of the Exchanges. Therefore, any recommendation or deficiency related to Market Regulation is a recommendation or deficiency that applies to all of the Exchanges.

38.701, however, the Division identified one deficiency and made one recommendation for improvement.

The Division provided the Exchanges with an opportunity to review and comment on a draft of this report on October 9, 2014. On October 15, 2014, Division staff conducted an exit conference with the Exchanges' officials to discuss the report's findings and recommendations.

II. Summary of Findings, Deficiencies Requiring Corrective Action, and Recommendations

A. Findings without Deficiencies Requiring Corrective Action or Recommendations

1. Core Principle 13 - § 38.700, Disciplinary Panels - § 38.702, Notice of Charges - § 38.703, Right to Representation - § 38.704, Answer to Charges - § 38.705, Denial of Charges and Right to Hearing - § 38.706, Hearings - § 38.707, Decisions - § 38.708, Final Decisions - § 38.709, and Additional Sources for Compliance - § 38.712

- The Division found that the Exchanges have sufficient disciplinary program rules and procedures to demonstrate compliance with Core Principle 13 under Section 5(d) of the Commodity Exchange Act, as amended by the Dodd-Frank Act, and Commission regulations § 38.700, §§ 38.702-38.709, and § 38.712. The Exchanges' rules are designed to ensure due process for disciplinary proceedings, and give the Exchanges the authority to discipline, suspend, or permanently bar members or market participants found to have committed rule violations.

2. Disciplinary Sanctions (Commission Regulation § 38.710)

- The Division found that the Exchanges imposed disciplinary sanctions sufficient to demonstrate compliance with Commission regulation § 38.710. During the target period, the Exchanges closed 93 disciplinary cases via disciplinary committee (31 for CBOT, 28 for CME, four for COMEX, and 30 for NYMEX) involving a total of 113 unique respondents.⁶ The Division reviewed all 93 closed disciplinary cases and found that sanctions imposed during the target period were reasonable relative to the violations alleged and the evidence presented. In addition, the Division found that the Exchanges' Business Conduct Committees ("BCC") consistently considered the respondent's disciplinary history and any customer harm when determining sanctions.
- In the 93 cases closed during the target period, the Exchanges assessed a total of \$6,301,500 in fines ranging from \$5,000 to \$1,000,000 and \$2,023,900 in disgorgement ranging from \$6,000 to \$1,080,150. In addition, the Exchanges ordered five respondents to pay a total of \$602,631 in customer restitution; issued suspensions

⁶ The Division notes that each respondent was counted only once, even if the respondent was involved in more than one disciplinary case.

for 51 individuals ranging from five days to 25 years; and imposed permanent bars on membership against 10 respondents.⁷

3. *Warning Letters (Commission Regulation § 38.711)*

- The Division found that the Exchanges' warning letter practices are sufficient to demonstrate compliance with Commission regulation § 38.710. During the target period, the Enforcement Group (a sub-group of Market Regulation responsible for prosecuting all disciplinary cases for the Exchanges) and the BCC issued a total of 16 warning letters. None of the warning letter recipients received more than one warning letter during the target period for the same violation.

B. Findings with Deficiencies Requiring Corrective Action or Recommendations

Enforcement Staff (Commission Regulation § 38.701)

- The Enforcement Group is responsible for prosecuting all disciplinary cases for the Exchanges. The Enforcement Group is led by an experienced management team that includes an Executive Director in New York and two regional Directors, one in New York and one in Chicago. During the target period, the Enforcement Group consisted of as many as nine and as few as seven Enforcement Attorneys. In September 2014, the Enforcement Group consisted of 13 Enforcement Attorneys.
- Of the 93 cases that were closed during the target period, 64 were closed in less than 12 months, 23 cases took between 12 and 24 months to close and six cases took more than 24 months to close.⁸ Additionally, 39 cases (17 for CBOT, 15 for CME, one for COMEX, and six for NYMEX) were referred to the Enforcement Group prior to the target period and remained open at the end of the year-long target period. Therefore, 68 cases were in the disciplinary process for more than a year ("aged cases").
- Of the 68 aged cases, the Division identified four cases (three for CME and one for CBOT) that were not promptly prosecuted due to insufficient staff. For all four cases, the Division identified periods of inactivity ranging from four to 14 months where the Enforcement Group failed to pursue any resolution to the cases. According to the Enforcement Group, these cases sat idle because staff was dedicated to prosecuting other cases, due to delay in transitioning a case to a new Enforcement Attorney, or because the case was of a low priority. Causes of delay in these four cases stemmed from insufficient Enforcement Group staffing. In these four cases, the Exchanges were deficient in their compliance with Commission regulation § 38.701 (Enforcement staff), which requires, among other things, that a designated contract

⁷ Market Regulation defines disgorgement as illicit profits returned to the Exchanges by the respondent and restitution as payment to a party financially injured by the respondent's actions.

⁸ The time required to close a disciplinary case is measured from the date the case is referred to the Enforcement Group to the effective date of the BCC's decision.

market maintain sufficient enforcement staff and resources to effectively and promptly prosecute possible rule violations.⁹

- **Deficiency: In order to comply with Commission regulation § 38.701, the Exchanges must maintain sufficient enforcement staff to promptly prosecute possible rule violations.**
- The Division identified nine aged cases (seven for CBOT and two for CME) that were delayed due to protracted deliberations among Market Regulation's senior management regarding the Exchanges' block trade pre-hedging rules and whether disciplinary charges were appropriate. These deliberations delayed the nine aged cases by as many as 17 months. Although the Division recognizes the complexity of the matter considered by Market Regulation's senior management, the Division believes that the Exchanges should not allow such deliberations to interfere with the prompt resolution of disciplinary matters.
- **Recommendation: The Exchanges should take appropriate measures to ensure that internal deliberations do not interfere with the prompt resolution of disciplinary matters.**

The accompanying Compliance Matrix in Section III below includes a thorough analysis of the Exchanges' compliance with Core Principle 13 under Section 5(d) of the Commodity Exchange Act, as amended by the Dodd-Frank Act, and the Commission's related regulations codified in §§ 38.700-712.

⁹ The four cases that resulted in the deficiency finding all involved staff-related delay that occurred after the effective date of the New DCM Regulations. The Division notes that an additional 11 cases were also delayed due to an insufficiently staffed Enforcement Group. These cases were not included in the deficiency finding only because the staff-related delay occurred before the effective date of the New DCM Regulations.

III. Compliance Matrix

CFTC Regulation	Findings Regarding the Exchanges' Compliance Target Period 4/1/12 – 3/31/13	Deficiencies/Recommendations
Core Principle 13 – Disciplinary Procedures		
<p>§ 38.700 Core Principle 13</p> <p>The board of trade shall establish and enforce disciplinary procedures that authorize the board of trade to discipline, suspend, or expel members or market participants that violate the rules of the board of trade, or similar methods for performing the same functions, including delegation of the functions to third parties.</p>	<p>The Division found that the Exchanges maintain adequate disciplinary procedures which enable the Exchanges to investigate potential rule violations, prosecute cases, and discipline members or market participants who are found to have violated Exchange rules.</p>	None
<p>§ 38.701 Enforcement Staff</p> <p>A designated contract market must establish and maintain sufficient enforcement staff and resources to effectively and promptly prosecute possible rule violations within the disciplinary jurisdiction of the contract market. A designated contract market must also monitor the size and workload of its enforcement staff annually, and ensure that its enforcement resources and staff are at appropriate levels. The enforcement staff may not include either members of the designated contract market or</p>	<p>The Enforcement Group, within CME Group's Market Regulation Department, is responsible for prosecuting all disciplinary cases and is led by an experienced management team that includes an Executive Director in New York and two regional Directors, one in New York and one in Chicago. During the target period, the Enforcement Group consisted of as many as nine and as few as seven Enforcement Attorneys.¹⁰ In August 2014, the Enforcement Group consisted of 13 Enforcement Attorneys.</p> <p>To determine whether the Enforcement Group maintains sufficient staff to promptly prosecute possible rule violations, the Division reviewed all 93 disciplinary cases closed during the target period (31 for CBOT, 28 for CME, four for COMEX, and 30 for NYMEX).¹¹ Of the 93 cases that were closed during the target</p>	See deficiency and recommendation below.

¹⁰ The Executive Director and the two regional Directors have management responsibilities but also serve as Enforcement Attorneys; therefore, they are included in the Enforcement Attorney total.

¹¹ Additionally, 68 cases were referred to the Enforcement Group during the target period and remained open at the end of the target period.

<p>persons whose interests conflict with their enforcement duties. A member of the enforcement staff may not operate under the direction or control of any person or persons with trading privileges at the contract market. A designated contract market's enforcement staff may operate as part of the designated contract market's compliance department.</p>	<p>period, 64 were closed in less than 12 months, 23 cases took between 12 and 24 months to close and six cases took more than 24 months to close.</p> <p>The Division also reviewed all 39 cases (17 for CBOT, 15 for CME, one for COMEX, and six for NYMEX) that were referred to the Enforcement Group prior to the target period and remained open at the end of the year-long target period.¹² In total, 68 of the cases reviewed by the Division were in the disciplinary process for more than one year (29 cases closed during the target period that took more than a year to close plus 39 cases that were referred to the Enforcement Group prior to the target period and remained open at the end of the year-long target period).</p> <p>Prompt resolution of disciplinary cases is necessary to, among other things, discourage further violations of exchange rules. Of the 68 aged cases, the Division identified four cases (three for CME and one for CBOT) that were not promptly prosecuted due to insufficient staff. In CME Case No. 09-06190, CBOT/CME Case No. 09-06544, and CME Case No. 09-06429, the Division identified periods of inactivity ranging from four to 14 months where the Enforcement Group failed to pursue any resolution to the cases.¹³ According to the Enforcement Group, these cases sat idle because staff was dedicated to prosecuting other cases, due to delay in transitioning a case to a new Enforcement Attorney, or because the case was of a low priority. Consequently, the Enforcement</p>	<p><u>Deficiency Requiring Corrective Action</u> The Exchanges must maintain sufficient enforcement staff to promptly prosecute possible rule violations.</p>
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¹² Five cases, involving multiple respondents, were closed during the target period for some respondents and remained open after the target period for other respondents. Accordingly, these five cases are counted toward the number of cases closed during the target period as well as toward the number of cases remaining open at the end of the target period.

¹³ CME Case No. 09-06190 took approximately 18 months to close. CBOT/CME Case No. 09-06544 took approximately 33 months to close. CME Case No. 09-06429 took approximately 36 months to close.

	<p>Group was insufficiently staffed while these cases were being prosecuted.¹⁴</p> <p>The Division identified nine aged cases (seven for CBOT and two for CME) that were delayed due to protracted deliberations among Market Regulation’s senior management regarding the Exchanges’ block trade pre-hedging rules and whether disciplinary charges were appropriate. These deliberations delayed the nine aged cases by as many as 17 months. Although the Division recognizes the complexity of the matter considered by Market Regulation’s senior management, the Division believes that the Exchanges should not allow such deliberations to interfere with the prompt resolution of disciplinary matters.</p>	<p><u>Recommendation</u> The Exchanges should take appropriate measures to ensure that internal deliberations do not interfere with the prompt resolution of disciplinary matters.</p>
<p>§ 38.702 Disciplinary Panels</p> <p>A designated contract market must establish one or more disciplinary panels that are authorized to fulfill their obligations under the rules of this subpart. Disciplinary panels must meet the composition requirements of part 40 of this chapter, and must not include any members of the designated contract market's compliance staff or any person involved in adjudicating any other stage of the same proceeding.</p>	<p>Each of the Exchanges maintains two disciplinary panels, a Probable Cause Committee (“PCC”) and a Business Conduct Committee (“BCC”). The PCC receives and reviews investigation reports prepared by Market Regulation and determines whether there is a reasonable basis for finding that a violation of exchange rules may have occurred which warrants the issuance of charges. The BCC is responsible for conducting settlement hearings and contested hearings based on charges issued by the PCC. Each committee is composed of five people: a panel chair, two exchange members (or employees of exchange member firms), and two non-members.</p>	<p>None</p>
<p>§ 38.703 Notice of Charges</p> <p>If compliance staff authorized by a</p>	<p>The Division found that the notice of charges issued during the target period adequately provided the elements required by</p>	<p>None</p>

¹⁴ The four cases that resulted in the deficiency finding all involved staff-related delay that occurred after the effective date of the new DCM regulations. The Division notes that an additional 11 cases were also delayed due to an insufficiently staffed Enforcement Group. These cases were not included in the deficiency finding only because the staff-related delay occurred before the effective date of the New DCM Regulations.

<p>designated contract market or a designated contract market disciplinary panel determines that a reasonable basis exists for finding a violation and that adjudication is warranted, it must direct that the person or entity alleged to have committed the violation be served with a notice of charges and must proceed in accordance with the rules of this section. A notice of charges must adequately state the acts, conduct, or practices in which the respondent is alleged to have engaged; state the rule, or rules, alleged to have been violated (or about to be violated); and prescribe the period within which a hearing on the charges may be requested. The notice must also advise that the charged respondent is entitled, upon request, to a hearing on the charges.</p>	<p>Commission regulation § 38.703. If a PCC Panel decides to issue charges, it directs the Enforcement Group to issue a notice of charges stating, among other things, the conduct in which the respondent is alleged to have engaged as well as the alleged rule violations. The notice of charges also advises the respondent that the matter will be heard by a BCC Panel and the time and place of the hearing.¹⁵</p>	
<p>§ 38.704 Right to Representation</p> <p>Upon being served with a notice of charges, a respondent must have the right to be represented by legal counsel or any other representative of its choosing in all succeeding stages of the disciplinary process, except any member of the designated contract market's board of directors or disciplinary panel, any employee</p>	<p>Notice of charges issued by the Enforcement Group state that the respondent has the right to be represented by legal counsel. In addition, the Exchanges' procedures and rules also include provisions regarding the respondent's right to counsel.¹⁶</p>	<p>None</p>

¹⁵ CBOT, CME, COMEX, and NYMEX Rule 407.B.

¹⁶ CBOT, CME, COMEX, and NYMEX Rules 407.B and 408.A.

<p>of the designated contract market, or any person substantially related to the underlying investigations, such as material witness or respondent.</p>		
<p>§ 38.705 Answer to Charges</p> <p>A respondent must be given a reasonable period of time to file an answer to a notice of charges. The rules of a designated contract market governing the requirements and timeliness of a respondent's answer to charges must be fair, equitable, and publicly available.</p>	<p>Notice of charges issued by the Enforcement Group give the respondent 21 days to answer the notice. In addition, the answer period and procedures governing the respondent's answer to charges are publicly disclosed in the Exchanges' rulebooks.¹⁷</p>	<p>None</p>
<p>§ 38.706 Denial of Charges and Right to Hearing</p> <p>In every instance where a respondent has requested a hearing on a charge that is denied, or on a sanction set by the disciplinary panel, the respondent must be given an opportunity for a hearing in accordance with the requirements of §38.707 of this part.</p>	<p>The Exchanges' rules provide for a hearing on charges that are denied.¹⁸ The Division did not identify any instances during the target period where a respondent's request for a hearing was denied.</p>	<p>None</p>
<p>§ 38.707 Hearings</p> <p>(a) A designated contract market must adopt rules that provide for the following minimum requirements for any hearing conducted pursuant to a</p>	<p>Disciplinary hearings are conducted in accordance with the Exchanges' rules:</p> <ul style="list-style-type: none"> • Hearings are held before members of the BCC. No formal rules of evidence apply, but hearings are structured and must be fair.¹⁹ 	<p>None</p>

¹⁷ CBOT, CME, COMEX, and NYMEX Rule 407.C.

¹⁸ CBOT, CME, COMEX, and NYMEX Rule 407.B and C.

¹⁹ CBOT, CME, COMEX, and NYMEX Rule 408.

<p>notice of charges:</p> <p>(1) The hearing must be fair, must be conducted before members of the disciplinary panel, and must be promptly convened after reasonable notice to the respondent. The formal rules of evidence need not apply; nevertheless, the procedures for the hearing may not be so informal as to deny a fair hearing. No member of the disciplinary panel for the matter may have a financial, personal, or other direct interest in the matter under consideration.</p> <p>(2) In advance of the hearing, the respondent must be entitled to examine all books, documents, or other evidence in the possession or under the control of the designated contract market. The designated contract market may withhold documents that are privileged or constitute attorney work product, documents that were prepared by an employee of the designated contract market but will not be offered in evidence in the disciplinary proceedings, documents that may disclose a technique or guideline used</p>	<ul style="list-style-type: none"> • The respondent may request and review, in advance of the hearing, records or other evidence in possession of the Exchanges.²⁰ • Enforcement Group staff participates in the hearings and presents the case at each hearing.²¹ • Respondents are entitled to appear personally and may call and cross-examine witnesses.²² • The Exchanges maintain rules that require persons within their jurisdiction, who are called as witnesses, to participate in the hearing and produce any evidence they may have.²³ • All hearings are recorded and such recordings may be requested by the respondent. If a transcript is requested, the respondent is responsible for the cost of producing the transcript.²⁴ 	
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²⁰ CBOT, CME, COMEX, and NYMEX Rule 408.B.

²¹ CBOT, CME, COMEX, and NYMEX Rule 408.D.

²² CBOT, CME, COMEX, and NYMEX Rule 408.D.

²³ CBOT, CME, COMEX, and NYMEX Rules 408.A and 418.

²⁴ CBOT, CME, COMEX, and NYMEX Rule 408.D.

<p>in examinations, investigations, or enforcements proceedings, and documents that disclose the identity of a confidential source.</p> <p>(3) The designated contract market's enforcement and compliance staffs must be parties to the hearing, and the enforcement staff must present their case on those charges and sanctions that are the subject of the hearing.</p> <p>(4) The respondent must be entitled to appear personally at the hearing, must be entitled to cross-examine any persons appearing as witnesses at the hearing, and must be entitled to call witnesses and to present such evidence as may be relevant to the charges.</p> <p>(5) The designated contract market must require persons within its jurisdiction who are called as witnesses to participate in the hearing and to produce evidence. It must make reasonable efforts to secure the presence of all other persons called as witnesses whose testimony would be relevant.</p> <p>(6) If the respondent has requested a hearing, a copy of the hearing must be made and must become a part of the record of the proceeding. The record must be one that is capable of being accurately transcribed; however, it need not be transcribed unless the transcript is requested by</p>		
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<p>Commission staff or the respondent, the decision is appealed pursuant to the rules of the designated contract market, or is reviewed by the Commission pursuant to section 8c of the Act or part 9 of this chapter. In all other instances a summary record of a hearing is permitted.</p> <p>(b) [Reserved]</p>		
<p>§ 38.708 Decisions</p> <p>Promptly following a hearing conducted 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:</p> <p>(a) The notice of charges or a summary of the charges;</p> <p>(b) The answer, if any, or a summary of the answer;</p> <p>(c) A summary of the evidence produced at the hearing or, where appropriate, incorporation by reference of the investigation report;</p> <p>(d) A statement of findings and conclusions with respect to each charge, and a complete explanation of the evidentiary and other basis for such findings and conclusions with</p>	<p>The Division found that the BCC promptly rendered written decisions following hearings during the target period. The Division also found that each BCC decision for all four contested and 12 in absentia/default hearings during the target period included a summary of the charges, any answer by respondent, a summary of the evidence produced at the hearing, a statement of findings and an explanation regarding the basis for such findings, the specific rule(s) violated by the respondent, and a declaration of the sanctions imposed against the respondent.</p>	

<p>respect to each charge;</p> <p>(e) An indication of each specific rule that the respondent was found to have violated; and</p> <p>(f) A declaration of all sanctions imposed against the respondent, including the basis for such sanctions and the effective date of such sanctions.</p>		
<p>§ 38.709 Final Decisions</p> <p>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.</p>	<p>A respondent who is found guilty of an offense or is otherwise aggrieved by a decision of or sanction imposed by the BCC may appeal to a hearing panel of the Board of Directors within 10 days of receiving notice of the decision or sanction, provided that the sanction imposed is greater than \$10,000 or a five-day suspension. In addition, Market Regulation may appeal a BCC decision or sanction, or a PCC decision not to issue requested charges, to a hearing panel of the Board within 10 days of receiving notice of the decision. Board hearing panels consist of a director appointed by the Chairman of the Board to serve as chairman of the panel, and two additional directors, one of whom must be a non-member. Appellate Panel decisions are deemed a decision of the Board and are the final decision of the exchange.²⁵</p>	<p>None</p>
<p>§ 38.710 Disciplinary Sanctions</p> <p>All disciplinary sanctions imposed by a designated contract market or its disciplinary panels must be commensurate with the violations committed and must be clearly</p>	<p>During the target period, the Exchanges closed 93 disciplinary cases (a majority of which were resolved via settlement agreement) involving a total of 113 unique respondents. The Division reviewed all 93 closed disciplinary cases and found that sanctions imposed during the target period were reasonable relative to the violations alleged and the evidence presented. In addition, the Division found that the Exchanges' BCC consistently considered</p>	<p>None</p>

²⁵ CBOT, CME, COMEX, and NYMEX Rule 411.

<p>sufficient to deter recidivism or similar violations by other market participants. All disciplinary sanctions, including sanctions imposed pursuant to an accepted settlement offer, must take into account the respondent's disciplinary history. In the event of demonstrated customer harm, any disciplinary sanction must also include full customer restitution, except where the amount of restitution, or to whom it should be provided, cannot be reasonably determined.</p>	<p>the respondent's disciplinary history and any customer harm when determining sanctions. In the 93 cases closed during the target period, the Exchanges assessed a total of \$6,301,500 in fines ranging from \$5,000 to \$1,000,000.</p> <ul style="list-style-type: none"> • CBOT Fines totaled \$2,265,000 and ranged from \$5,000 - \$1,000,000 • CME Fines totaled \$2,021,500 and ranged from \$5,000 - \$750,000 • COMEX Fines totaled \$210,000 and ranged from \$5,000 - \$70,000 • NYMEX Fines totaled \$1,555,000 and ranged from \$5,000 - \$225,000 <p>In addition, the Exchanges ordered five respondents to pay a total of \$602,631 in customer restitution; assessed \$2,023,900 in disgorgement ranging from \$6,000 to \$1,080,150; issued suspensions for 51 individuals ranging from five days to 25 years; and imposed permanent bars on membership against 10 respondents.</p>	
<p>§ 38.711 Warning Letters</p> <p>Where a rule violation is found to have occurred, no more than one warning letter may be issued per rolling 12-month period for the same violation.</p>	<p>Market Regulation maintains a warning letter policy prohibiting the issuance of more than one warning letter per rolling 12-month period for the same violation. Also, to ensure no more than one warning letter is issued per rolling 12-month period, Market Regulation maintains a list of all warning letters issued since 2010. During the target period, the Enforcement Group and the BCC issued a total of 16 warning letters. None of the warning letter recipients received more than one warning letter during the target period for the same violation.</p>	<p>None</p>
<p>§ 38.712 Additional Sources</p>	<p>The Division notes that the Exchanges' rules provide, among other</p>	<p>None</p>

<p>for Compliance</p> <p>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.</p>	<p>things, that:</p> <ul style="list-style-type: none"> • Any charge in the notice of charges not denied in whole or in part shall be deemed admitted by the BCC.²⁶ • The BCC shall have the authority to take emergency actions.²⁷ 	
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²⁶ CBOT, CME, COMEX, and NYMEX Rule 407.C.

²⁷ CBOT, CME, COMEX, and NYMEX Rule 402.C.