

The Commission vote for this determination took place on August 11, 2022.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in Part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.  
Issued: August 11, 2022.

**Katherine Hiner,**

*Acting Secretary to the Commission.*

[FR Doc. 2022-17660 Filed 8-16-22; 8:45 am]

BILLING CODE 7020-02-P

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1321]

### Certain Barcode Scanners, Scan Engines, Mobile Computers With Barcode Scanning Functionalities, Products Containing the Same, and Components Thereof II; Notice of a Commission Determination Not To Review an Initial Determination Terminating the Investigation Due to a Settlement Agreement; Termination of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission ("Commission") has determined not to review an initial determination ("ID") (Order No. 3) issued by the presiding administrative law judge ("ALJ") terminating the above-captioned investigation based on a settlement agreement. The investigation is hereby terminated.

**FOR FURTHER INFORMATION CONTACT:** Carl P. Bretscher, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2382. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on March 11, 2022, based on a complaint, as supplemented, filed by Honeywell International Inc. of Charlotte, North Carolina and Hand Held Products, Inc. of Charlotte, North Carolina (collectively, "Honeywell"). 87 FR 38423-24 (June 28, 2022). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, sale for importation, or sale in the United States after importation of certain barcode scanners, scan engines, mobile computers with barcode scanning functionalities, products containing the same, and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 11,323,949; 11,323,650; 7,852,519; and 9,258,188. *Id.* The complaint further alleges that a domestic industry exists. *Id.*

The Commission's notice of investigation named the following respondents: Zebra Technologies Corp. of Lincolnshire, Illinois and Symbol Technologies, LLC of Holtsville, New York (collectively, "Zebra"). The Office of Unfair Import Investigations is not participating as a party in this investigation.

On July 11, 2022, Honeywell and Zebra jointly moved to terminate the investigation based on a settlement agreement.

On July 12, 2022, the presiding ALJ issued the subject ID (Order No. 3) granting the joint motion to terminate the investigation. The ID finds that, pursuant to Commission Rules 210.21(a), (b) (19 CFR 210.21(a), (b)), Honeywell and Zebra represent that there are no other agreements, express or implied, oral or written, between them regarding the subject matter of this investigation. The ID further finds that termination is proper because it would not be contrary to the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive conditions in the United States, or U.S. consumers. The ID further finds that termination is in the public interest, and it will conserve public and private resources.

No party filed a petition for review of the subject ID.

The Commission has determined not to review the subject ID. Accordingly, the investigation is hereby terminated.

The Commission vote for this determination took place on August 11, 2022.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as

amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: August 11, 2022.

**Katherine Hiner,**

*Acting Secretary to the Commission.*

[FR Doc. 2022-17639 Filed 8-16-22; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-95473; File No. SR-NYSE-2022-35]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Expiration Date of the Temporary Amendments to Rules 9261 and 9830

August 11, 2022.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on July 29, 2022, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes extending the expiration date of the temporary amendments to Rules 9261 and 9830 as set forth in SR-NYSE-2020-76 from July 31, 2022, to October 31, 2022, in conformity with recent changes by the Financial Industry Regulatory Authority, Inc. ("FINRA"). The proposed rule change would not make any changes to the text of NYSE Rules 9261 and 9830. The proposed rule change is available on the Exchange's website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The Exchange proposes extending the expiration date of the temporary amendments as set forth in SR-NYSE-2020-76<sup>4</sup> to Rules 9261 (Evidence and Procedure in Hearing) and 9830 (Hearing) from July 31, 2022, to October 31, 2022 to harmonize with recent changes by FINRA to extend the expiration date of the temporary amendments to its Rules 9261 and 9830. SR-NYSE-2020-76 temporarily granted to the Chief or Deputy Chief Hearing Officer the authority to order that hearings be conducted by video conference if warranted by public health risks posed by in-person hearings during the ongoing COVID-19 pandemic. The proposed rule change would not make any changes to the text of Exchange Rules 9261 and 9830.<sup>5</sup>

#### Background

In 2013, the NYSE adopted disciplinary rules that are, with certain exceptions, substantially the same as the FINRA Rule 8000 Series and Rule 9000 Series, and which set forth rules for conducting investigations and enforcement actions.<sup>6</sup> The NYSE

disciplinary rules were implemented on July 1, 2013.<sup>7</sup>

In adopting disciplinary rules modeled on FINRA's rules, the NYSE adopted the hearing and evidentiary processes set forth in Rule 9261 and in Rule 9830 for hearings in matters involving temporary and permanent cease and desist orders under the Rule 9800 Series. As adopted, the text of Rule 9261 is identical to the counterpart FINRA rule. Rule 9830 is substantially the same as FINRA's rule, except for conforming and technical amendments.<sup>8</sup>

In response to the COVID-19 global health crisis and the corresponding need to restrict in-person activities, on August 31, 2020, FINRA filed with the Commission a proposed rule change for immediate effectiveness, SR-FINRA-2020-027, which allowed FINRA's Office of Hearing Officers ("OHO") to conduct hearings, on a temporary basis, by video conference, if warranted by the current COVID-19-related public health risks posed by an in-person hearing. Among the rules FINRA amended were Rules 9261 and 9830.<sup>9</sup>

Given that FINRA and OHO administers disciplinary hearings on the Exchange's behalf, and that the public health concerns addressed by FINRA's amendments apply equally to Exchange disciplinary hearings, on September 15, 2020, the Exchange filed to temporarily amend Rule 9261 and Rule 9830 to permit FINRA to conduct virtual hearings on its behalf.<sup>10</sup> In December 2020, FINRA filed a proposed rule change, SR-FINRA-2020-042, to extend the expiration date of the temporary amendments in SR-FINRA-2020-027 from December 31, 2020, to April 30, 2021.<sup>11</sup> On December 22, 2020, the Exchange similarly filed to extend the temporary amendments to Rule 9261 and Rule 9830 to April 30, 2021.<sup>12</sup> On April 1, 2021, FINRA filed a proposed rule change, SR-FINRA-2021-006, to extend the expiration date of the temporary rule amendments to, among other rules, FINRA Rule 9261 and 9830 from April 30, 2021, to August 31,

2021.<sup>13</sup> On April 20, 2021, the Exchange filed to extend the temporary amendments to Rule 9261 and Rule 9830 to August 31, 2021.<sup>14</sup> On August 13, 2021, FINRA filed a proposed rule change, SR-FINRA-2021-019, to extend the expiration date of the temporary amendments to, among other rules, FINRA Rule 9261 and 9830 from August 31, 2021, to December 31, 2021.<sup>15</sup> On August 27, 2021, the Exchange filed to extend the temporary amendments to Rule 9261 and Rule 9830 to December 31, 2021.<sup>16</sup> On December 7, 2021, FINRA filed a proposed rule change, SR-FINRA-2021-031, to extend the expiration date of the temporary amendments to, among other rules, FINRA Rule 9261 and 9830 from December 31, 2021, to March 31, 2022.<sup>17</sup> On December 27, 2021, the Exchange filed to extend the temporary amendments to Rule 9261 and Rule 9830 to March 31, 2022, after which the temporary amendments will expire absent another proposed rule change filing by the Exchange.<sup>18</sup> On March 7, 2022, FINRA filed to extend the expiration date of the temporary rule amendments to, among other rules, FINRA Rule 9261 and 9830 from March 31, 2022, to July 31, 2022.<sup>19</sup> On March 29, 2022, the Exchange filed to extend the temporary amendments to Rule 9261 and Rule 9830 to July 31, 2022, after which the temporary amendments will expire absent another proposed rule change filing by the Exchange.<sup>20</sup>

Even though it has been more than two years since the World Health Organization declared COVID-19 a pandemic, FINRA has determined that uncertainty still remains around this disease. The continued presence of COVID-19 variants including the quickly emerging Omicron BA.4 and BA.5 subvariants, dissimilar vaccination rates throughout the United States, and

<sup>13</sup> See Securities Exchange Act Release No. 91495 (April 7, 2021), 86 FR 19306 (April 13, 2021) (SR-FINRA-2021-006).

<sup>14</sup> See Securities Exchange Act Release No. 91629 (April 22, 2021), 86 FR 22505 (April 28, 2021) (SR-NYSE-2020-27).

<sup>15</sup> See Securities Exchange Act Release No. 92685 (August 17, 2021), 86 FR 47169 (August 23, 2021) (SR-FINRA-2021-019).

<sup>16</sup> See Securities Exchange Act Release No. 92907 (September 9, 2021), 86 FR 51421 (September 15, 2021) (SR-NYSE-2021-47).

<sup>17</sup> See Securities Exchange Act Release No. 93758 (December 13, 2021), 86 FR 71695 (December 17, 2021) (SR-FINRA-2021-31).

<sup>18</sup> See Securities Exchange Act Release No. 93920 (January 6, 2022), 87 FR 1794 (January 12, 2022) (SR-NYSE-2021-78).

<sup>19</sup> See Securities Exchange Act Release No. 94430 (March 16, 2022), 87 FR 16262 (March 22, 2022) (SR-FINRA-2022-004).

<sup>20</sup> See Securities Exchange Act Release No. 94585 (April 1, 2022), 87 FR 20479 (April 7, 2022) (SR-NYSE-2022-18).

<sup>4</sup> See Securities Exchange Act Release No. 90024 (September 28, 2020), 85 FR 62353 (October 2, 2020) (SR-NYSE-2020-76) ("SR-NYSE-2020-76").

<sup>5</sup> The Exchange may submit a separate rule filing to extend the expiration date of the proposed extension beyond October 31, 2022 if the Exchange requires additional temporary relief from the rule requirements identified in NYSE-SR-2020-76. The amended NYSE rules will revert back to their original state at the conclusion of the temporary relief period and any extension thereof.

<sup>6</sup> See Securities Exchange Act Release No. 68678 (January 16, 2013), 78 FR 5213 (January 24, 2013) (SR-NYSE-2013-02) ("2013 Notice"), 69045 (March 5, 2013), 78 FR 15394 (March 11, 2013) (SR-NYSE-2013-02) ("2013 Approval Order"), and 69963 (July 10, 2013), 78 FR 42573 (July 16, 2013) (SR-NYSE-2013-49).

<sup>7</sup> See NYSE Information Memorandum 13-8 (May 24, 2013).

<sup>8</sup> See 2013 Approval Order, 78 FR at 15394, n.7 & 15400; 2013 Notice, 78 FR at 5228 & 5234.

<sup>9</sup> See Securities Exchange Act Release No. 89737 (September 2, 2020), 85 FR 55712 (September 9, 2020) (SR-FINRA-2020-027) (the "August 31 FINRA Filing").

<sup>10</sup> See note 4, *supra*.

<sup>11</sup> See Securities Exchange Act Release No. 90619 (December 9, 2020), 85 FR 81250 (December 15, 2020) (SR-FINRA-2020-042).

<sup>12</sup> See Securities Exchange Act Release No. 90821 (December 30, 2020), 86 FR 644 (January 6, 2021) (SR-NYSE-2020-107).

the current medium to high COVID-19 community levels in many states indicate that COVID-19 remains an active and real public health concern.<sup>21</sup> Due to the uncertainty and the lack of a clear timeframe for a sustained and widespread abatement of COVID-19-related health concerns and corresponding restrictions,<sup>22</sup> FINRA believes that there is a continued need for temporary relief beyond July 31, 2022.<sup>23</sup> On July 8, 2022, FINRA accordingly filed to extend the expiration date of the temporary rule amendments to, among other rules, FINRA Rule 9261 and 9830 from July 31, 2022, to October 31, 2022.<sup>24</sup>

#### Proposed Rule Change

Consistent with FINRA's recent proposal, the Exchange proposes to extend the expiration date of the temporary rule amendments to NYSE Rules 9261 and 9830 as set forth in SR-NYSE-2020-76 from July 31, 2022, to October 31, 2022.

As set forth in SR-FINRA 2022-018, even though it has been more than two years since the World Health Organization declared COVID-19 a pandemic, uncertainty still remains around this disease. The continued presence of COVID-19 variants including the quickly emerging Omicron BA.4 and BA.5 subvariants, dissimilar vaccination rates throughout the United States, and the current medium to high COVID-19 community levels in many states indicate that

COVID-19 remains an active and real public health concern.<sup>25</sup> Due to the uncertainty and the lack of a clear timeframe for a sustained and widespread abatement of COVID-19-related health concerns and corresponding restrictions,<sup>26</sup> FINRA believes that there is a continued need for temporary relief beyond July 31, 2022.<sup>27</sup> FINRA accordingly proposed to extend the expiration date of the temporary rule amendments from July 31, 2022, to October 31, 2022.

The Exchange proposes to similarly extend the expiration date of the temporary rule amendments to NYSE Rules 9261 and 9830 as set forth in SR-NYSE-2020-76 from July 31, 2022, to October 31, 2022. The Exchange agrees with FINRA that, even though it has been more than two years since the World Health Organization declared COVID-19 a pandemic, uncertainty still remains around this disease. The Exchange also agrees that, due to the uncertainty and the lack of a clear timeframe for a sustained and widespread abatement of COVID-19-related health concerns and corresponding restrictions, for the reasons set forth in SR-FINRA-2022-018, there is a continued need for this temporary relief beyond July 31, 2022. The proposed change would permit OHO to continue to assess, based on critical COVID-19 data and criteria and the guidance of health and security consultants, whether an in-person hearing would compromise the health and safety of the hearing participants such that the hearing should proceed by video conference. As noted in SR-FINRA-2022-018, in deciding whether to schedule a hearing by video conference, OHO may consider a variety of other factors in addition to COVID-19 trends. Similarly, as noted in SR-FINRA-2022-018, in SR-FINRA-2020-027, FINRA provided a non-exhaustive list of other factors OHO may take into consideration, including a hearing participant's individual health concerns and access to the connectivity and technology necessary to participate in a video conference hearing.<sup>28</sup> The Exchange believes that this is a reasonable procedure to continue to follow for hearings under Rules 9261 and 9830 chaired by a FINRA employee.

As noted below, the Exchange has filed the proposed rule change for immediate effectiveness and has

requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so the Exchange can implement the proposed rule change immediately.

#### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>29</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>30</sup> in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is designed to provide a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d) of the Act.<sup>31</sup>

The Exchange believes that the proposed rule change supports the objectives of the Act by providing greater harmonization between Exchange rules and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance. As such, the proposed rule change will foster cooperation and coordination with persons engaged in facilitating transactions in securities and will remove impediments to and perfect the mechanism of a free and open market and a national market system.

The proposed rule change, which extends the expiration date of the temporary amendments to Exchange rules consistent with FINRA's extension to its Rules 9261 and 9830 as set forth in SR-FINRA-2022-018, will permit the Exchange to continue to effectively conduct hearings during the COVID-19 pandemic. Given the current and frequently changing COVID-19 conditions and the uncertainty around when those conditions will see meaningful, widespread and sustained improvement, without this relief allowing OHO to proceed by video conference, some or all hearings may have to be postponed.

The ability to conduct hearings by video conference will permit the adjudicatory functions of the Exchange's

<sup>21</sup> See Securities Exchange Act Release No. 95281 (July 14, 2022), 87 FR 43335 (July 20, 2022) (SR-FINRA-2022-018) ("SR-FINRA-2022-018"). FINRA noted that, for example, there has been a notable upward trend in the number of daily COVID-19 cases in the United States since April 1, 2022. See [https://covid.cdc.gov/covid-data-tracker/#trends\\_dailycases](https://covid.cdc.gov/covid-data-tracker/#trends_dailycases). In addition, on June 9, 2022, the Biden Administration announced its operational plan for COVID-19 vaccinations for children under the age of five. See <https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/09/fact-sheet-biden-administration-announces-operational-plan-for-covid-19-vaccinations-for-children-under-5/>. See SR-FINRA-2022-018, 87 FR at 43335, n. 6.

<sup>22</sup> For instance, FINRA noted that the Centers for Disease Control and Prevention ("CDC") recommends that people wear a mask in public indoor settings in areas with a high COVID-19 community level regardless of vaccination status or individual risk. See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>. The CDC also recommends that people wear a mask in indoor areas of public transportation and transportation hubs to protect themselves and those around them and help keep travel and public transportation safer for everyone. See <https://www.cdc.gov/coronavirus/2019-ncov/travelers/masks-public-transportation.html>. Furthermore, numerous states currently have mask mandates in certain settings, such as healthcare and correctional facilities. See SR-FINRA-2022-018, 87 FR at 43335, n.7.

<sup>23</sup> See SR-FINRA-2022-018, 87 FR 43335.

<sup>24</sup> See SR-FINRA-2022-018, 87 FR at 43335-36.

<sup>25</sup> See note 21, *supra*.

<sup>26</sup> See note 22, *supra*.

<sup>27</sup> See SR-FINRA-2022-018, 87 FR at 87 FR at 43337.

<sup>28</sup> See SR-FINRA-2022-018, 87 FR at 43336, n. 16.

<sup>29</sup> 15 U.S.C. 78f(b).

<sup>30</sup> 15 U.S.C. 78f(b)(5).

<sup>31</sup> 15 U.S.C. 78f(b)(7) & 78f(d).

disciplinary rules to continue unabated, thereby avoiding protracted delays. The Exchange believes that this is especially important in matters where temporary and permanent cease and desist orders are sought because the proposed rule change would enable those hearings to continue to proceed without delay, thereby enabling the Exchange to continue to take immediate action to stop significant, ongoing customer harm, to the benefit of the investing public.

As set forth in detail in the SR–NYSE–2020–76, the temporary relief to permit hearings to be conducted via video conference maintains fair process and will continue to provide fair process consistent with Sections 6(b)(7) and 6(d) of the Act<sup>32</sup> while striking an appropriate balance between providing fair process and enabling the Exchange to fulfill its statutory obligations to protect investors and maintain fair and orderly markets while avoiding the COVID–19-related public health risks for hearing participants. The Exchange notes that this proposal, like SR–NYSE–2020–76, provides only temporary relief. As proposed, the changes would be in place through October 31, 2022. As noted in SR–NYSE–2020–76 and above, the amended rules will revert back to their original state at the conclusion of the temporary relief period and, if applicable, any extension thereof.

Accordingly, the proposed rule change extending this temporary relief is in the public interest and consistent with the Act’s purpose.

#### *B. Self-Regulatory Organization’s Statement on Burden on Competition*

The Exchange does not believe that the proposed temporary rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues but is rather intended solely to extend temporary relief necessitated by the continued impacts of the COVID–19 pandemic and the related health and safety risks of conducting in-person activities. The Exchange believes that the proposed rule change will prevent unnecessary impediments to critical adjudicatory processes and its ability to fulfill its statutory obligations to protect investors and maintain fair and orderly markets that would otherwise result if the temporary amendments were to expire on July 31, 2022.

#### *C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>33</sup> and Rule 19b–4(f)(6) thereunder.<sup>34</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)<sup>35</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),<sup>36</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange has indicated that there is a continued need to extend the temporary relief because the Exchange agrees with FINRA that the COVID–19 related health concerns necessitating this relief will not meaningfully subside by July 31, 2022.<sup>37</sup> The Exchange also states that extending the temporary relief provided in SR–NYSE–2020–76 immediately upon filing and without a 30-day operative delay will allow the Exchange to continue critical adjudicatory and review processes so that the Exchange may continue to operate effectively and meet its critical investor protection goals, while also protecting the health and safety of hearing participants.<sup>38</sup> The Commission

also notes that this proposal extends without change the temporary relief previously provided by SR–NYSE–2020–76.<sup>39</sup> As proposed, the temporary changes would be in place through October 31, 2022 and the amended rules will revert back to their original state at the conclusion of the temporary relief period and, if applicable, any extension thereof.<sup>40</sup> For these reasons, the Commission believes that waiver of the 30-day operative delay for this proposal is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.<sup>41</sup>

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>42</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission’s internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR–NYSE–2022–35 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

<sup>39</sup> See *supra* note 4.

<sup>40</sup> See *supra* note 5. As noted above, the Exchange states that if it requires temporary relief from the rule requirements identified in this proposal beyond October 31, 2022, it may submit a separate rule filing to extend the effectiveness of the temporary relief under these rules.

<sup>41</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>42</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>33</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>34</sup> 17 CFR 240.19b–4(f)(6).

<sup>35</sup> 17 CFR 240.19b–4(f)(6).

<sup>36</sup> 17 CFR 240.19b–4(f)(6)(iii).

<sup>37</sup> See *supra* Item II; see also SR–FINRA–2022–018, 87 FR 43335, at 43336.

<sup>38</sup> See 87 FR 43335, at 43337–38 (noting the same in granting FINRA’s request to waive the 30-day operative delay so that SR–FINRA–2022–018 would become operative immediately upon filing).

<sup>32</sup> 15 U.S.C. 78f(b)(7) & 78f(d).

All submissions should refer to File Number SR–NYSE–2022–35. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2022–35 and should be submitted on or before September 7, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>43</sup>

**J. Matthew DeLesDernier,**  
*Deputy Secretary.*

[FR Doc. 2022–17663 Filed 8–16–22; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95479; File No. SR–Phlx–2022–33]

### Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 7, Section 4

August 11, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup>

notice is hereby given that on August 1, 2022, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Phlx’s Pricing Schedule at Options 7, Section 4, “Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed) (Excludes SPY and broad-based index options symbols listed within Options 7, Section 5.A).”

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/phlx/rules>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

Phlx proposes to amend its Pricing Schedule at Options 7, Section 4, “Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed) (Excludes SPY and broad-based index options symbols listed within Options 7, Section 5.A).” Specifically, Phlx proposes to remove the maximum Qualified Contingent Cross (“QCC”) rebate that will be paid by the Exchange in a given month. The Exchange believes that removing this rebate will permit Phlx to compete more effectively with other options exchange for QCC Orders by incentivizing market

participants to transact a greater amount of QCC Orders on Phlx in order to receive a QCC Rebate.<sup>3</sup>

Today, the Exchange assesses a \$.20 per contract QCC Transaction Fee for a Lead Market Maker,<sup>4</sup> Market Maker,<sup>5</sup> Firm<sup>6</sup> and Broker-Dealer.<sup>7</sup> Customers<sup>8</sup> and Professionals<sup>9</sup> are not assessed a QCC Transaction Fee. QCC Transaction Fees apply to electronic QCC Orders<sup>10</sup> and Floor QCC Orders.<sup>11</sup> Rebates are paid on all qualifying executed electronic QCC Orders and Floor QCC Orders based on the following six tier rebate schedule:<sup>12</sup>

<sup>3</sup> Phlx will monitor the impact of this proposal on QCC Order volumes, and may in the future impose a maximum on the amount of QCC Rebate it would pay to members and member organizations that execute qualifying QCC Orders.

<sup>4</sup> The term “Lead Market Maker” applies to transactions for the account of a Lead Market Maker (as defined in Options 2, Section 12(a)). A Lead Market Maker is an Exchange member who is registered as an options Lead Market Maker pursuant to Options 2, Section 12(a). An options Lead Market Maker includes a Remote Lead Market Maker which is defined as an options Lead Market Maker in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Options 2, Section 11. See Options 7, Section 1(c). The term “Floor Lead Market Maker” is a member who is registered as an options Lead Market Maker pursuant to Options 2, Section 12(a) and has a physical presence on the Exchange’s trading floor. See Options 8, Section 2(a)(3).

<sup>5</sup> The term “Market Maker” is defined in Options 1, Section 1(b)(28) as a member of the Exchange who is registered as an options Market Maker pursuant to Options 2, Section 12(a). A Market Maker includes SQTs and RSQTs as well as Floor Market Makers. See Options 7, Section 1(c). The term “Floor Market Maker” is a Market Maker who is neither an SQT or an RSQT. A Floor Market Maker may provide a quote in open outcry. See Options 8, Section 2(a)(4).

<sup>6</sup> The term “Firm” applies to any transaction that is identified by a member or member organization for clearing in the Firm range at The Options Clearing Corporation. See Options 7, Section 1(c).

<sup>7</sup> The term “Broker-Dealer” applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category. See Options 7, Section 1(c).

<sup>8</sup> The term “Customer” applies to any transaction that is identified by a member or member organization for clearing in the Customer range at The Options Clearing Corporation (“OCC”) which is not for the account of a broker or dealer or for the account of a “Professional” (as that term is defined in Options 1, Section 1(b)(45)). See Options 7, Section 1(c).

<sup>9</sup> The term “Professional” applies to transactions for the accounts of Professionals, as defined in Options 1, Section 1(b)(45) means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). See Options 7, Section 1(c).

<sup>10</sup> Electronic QCC Orders are described in Options 3, Section 12.

<sup>11</sup> Floor QCC Orders are described in Options 8, Section 30(e).

<sup>12</sup> Volume resulting from all executed electronic QCC Orders and Floor QCC Orders, including Customer-to-Customer, Customer-to-Professional, and Professional-to-Professional transactions and

<sup>43</sup> 17 CFR 200.30–3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.