

analysis, and conditions, please refer to Applicants' third amended and restated application, dated November 29, 2022, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at <https://www.sec.gov/edgar/searchedgar/legacy/companysearch.html>. You may also call the SEC's Public Reference Room at (202) 551-8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96940; File No. SR-MRX-2022-30]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Withdrawal of Proposed Rule Change To Amend Options 7, Section 7 To Add Market Data Fees

February 16, 2023.

On December 19, 2022, Nasdaq MRX, LLC ("MRX") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934¹ and Rule 19b-4 thereunder,² a proposed rule change to assess market data fees. The proposed rule change was published for comment in the **Federal Register** on December 28, 2022.³

On February 6, 2023, MRX withdrew the proposed rule change (SR-MRX-2022-30).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴

Sherry R. Haywood,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96944; File No. SR-NYSE-2023-11]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Rule 7.44 Relating to the Retail Liquidity Program

February 16, 2023.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act")² and Rule 19b-4 thereunder,³ notice is hereby given that on February 14, 2023, 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, II, and III 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 to modify Rule 7.44 relating to the Retail Liquidity Program. The proposed rule change is available on the Exchange's website at www.nyse.com, 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 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 to modify Rule 7.44, which sets forth the Exchange's Retail Liquidity Program

(the "Program").⁴ The purpose of the Program is to attract retail order flow to the Exchange and allow such order flow to receive potential price improvement. Under Rule 7.44, a class of market participants called Retail Liquidity Providers ("RLPs") and non-RLP member organizations are able to provide potential price improvement to retail investor orders in the form of a non-displayed order that is priced better than the best protected bid or offer, called a Retail Price Improvement Order ("RPI Order").⁵ When there is an RPI Order in a particular security, the Exchange disseminates an indicator, known as the Retail Liquidity Identifier, that such interest exists.⁶ Retail Member Organizations ("RMOs") can submit a Retail Order to the Exchange, which interacts, to the extent possible, with available contra-side RPI Orders and then may interact with other liquidity on the Exchange or elsewhere, depending on the Retail Order's instructions.⁷ The segmentation in the Program allows retail order flow to receive potential price improvement as a result of their order flow being deemed more desirable by liquidity providers. The Exchange recently modified the Program to be available for all securities traded on the Exchange.⁸

Rule 7.44(k) currently describes the operation of a Retail Order pursuant to the Program, which is defined in Rule 7.44(a)(3) as an agency order or a riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by an RMO, provided that no change is made to the

⁴ The Program was established on a pilot basis in 2012 and was approved by the Commission to operate on a permanent basis in 2019. See Securities Exchange Act Release No. 85160 (February 15, 2019), 84 FR 5754 (February 22, 2019) (SR-NYSE-2018-28). In connection with the Commission's approval of the Program on a pilot basis, the Commission granted the Exchange's request for exemptive relief from Rule 612 of Regulation NMS, 17 CFR 242.612 (the "Sub-Penny Rule"), which, among other things, prohibits a national securities exchange from accepting or ranking orders priced greater than \$1.00 per share in an increment smaller than \$0.01. See Securities Exchange Act Release No. 67347 (July 3, 2012), 77 FR 40673 (July 10, 2012) (SR-NYSE-2011-55). The Exchange notes that the change proposed in this filing has no substantive impact under the Sub-Penny Rule and thus does not require an update or revision to the exemptive relief previously granted by the Commission.

⁵ See Rules 7.44(a)(1) (defining an RLP) and 7.44(a)(4) (defining RPI Order).

⁶ See Rule 7.44(j).

⁷ See Rule 7.44(a)(2) (defining RMO); Rules 7.44(a)(3) and 7.44(k) (describing Retail Orders).

⁸ See Securities Exchange Act Release No. 96112 (October 20, 2022), 87 FR 64831 (October 26, 2022) (SR-NYSE-2022-47) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify Rule 7.44).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 96561 (December 21, 2022), 87 FR 79915.

⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.