BEFORE THE
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC

In the Matter of the Application of the Application for Review of

Entrex Carbon Market, Inc. (f/k/a UHF Logistics Group, Inc.) Shareholders

File No. 3-22473

FINRA'S MOTION TO DISMISS THE APPLICATION FOR REVIEW AND TO STAY THE DEADLINE FOR FILING OF THE CERTIFIED RECORD AND INDEX AND THE ISSUANCE OF A BRIEFING SCHEDULE

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I. INTRODUCTION

This matter concerns two requests made by Entrex Carbon Market, Inc. (f/k/a UHF Logistics Group, Inc.) ("Entrex" or "the issuer") to FINRA's Department of Market Operations ("Operations") to process documentation related to three corporate actions. While Operations was undertaking its review and before Operations issued any determination on Entrex's requests, six shareholders ("Shareholders") of Entrex filed this application for review with the Commission. Shareholders' Appl. for Review & Attachment 1. The Shareholders sought to challenge various aspects of FINRA's review of Entrex's two requests. Shareholders' Appl. for Review & Br. in Support ("Shareholders' Br.").

These Shareholders, who are not "duly authorized representative[s]" of the issuer under FINRA rules, asked the Commission: (1) to order FINRA to issue a final determination on Entrex's two requests within 30 days or, alternatively, to find that FINRA "constructive[ly]" denied the requests and to reverse the constructive denials; (2) to order FINRA to disgorge the non-refundable corporate action processing fees set forth in FINRA Rule 6490(c), plus interest; and (3) to undertake proceedings to review and revise aspects of FINRA Rule 6490 and "impose

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any necessary reforms." Shareholders' Appl. for Review and Br. The Shareholders also asserted constitutional challenges to FINRA's processing of corporate actions requests. Shareholders' Appl. for Review and Br.

Pursuant to SEC Rule of Practice 154, FINRA now moves the Commission to dismiss this proceeding for mootness and a lack of appellate jurisdiction. First, Operations issued its determination on Entrex's corporate actions requests on April 21, 2025, and agreed to process the requests. Shareholders' Opp'n to FINRA's Mot. to Extend ("Shareholders' Opp'n"), Exhibit 1. Because the issuer received a determination to process its corporate actions requests, the Shareholders concede that this aspect of the Shareholders' application for review is moot. Shareholders' Opp'n at 1, 3. Second, the Shareholders are not the proper party to seek Commission review. They are not designated as "duly authorized" by the issuer under FINRA Rule 6490.

Finally, the Commission lacks a statutory basis to exercise jurisdiction under Section 19(d) of the Securities Exchange Act of 1934 ("Exchange Act") over any aspect of the application for review. FINRA did not deny or limit Entrex's access to any service under Section 19(d) because Operations agreed to process Entrex's corporate actions requests. FINRA's charging of non-refundable fees for the processing and review of corporate actions requests, and the Shareholders' demand for rulemaking and reforms to the Rule 6490 process, including constitutional challenges to those processes, are also not reviewable under any of the prongs that establish Commission jurisdiction under Section 19(d). Indeed, the Shareholders offer no legal argument that any ground exists under Section 19(d) for the Commission to consider their application. Nor can they. The Commission has dismissed for lack of jurisdiction claims similar to the Shareholders'.

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The Commission should follow its well-established precedent related to mootness and its jurisdiction and dismiss the Shareholders' application for review.[1]

II. BACKGROUND

A. FINRA's Processing of Corporate Actions Under FINRA Rule 6490

The Commission approved FINRA Rule 6490 in July 2010 to facilitate FINRA's critical functions in the over the counter ("OTC") market. *See Order Approving Proposed FINRA Rule 6490 (Processing of Company-Related Actions)* ("*Approval Order*"), Exchange Act Release No. 62434, 2010 SEC LEXIS 2186, at *2-3 (July 1, 2010); *see Positron Corp.*, Exchange Act Release No. 74216, 2015 SEC LEXIS 442, at *4 (Feb. 5, 2015). The review, processing, and announcement of certain actions taken by issuers of OTC securities are included among FINRA's functions in the OTC market. *See Approval Order*, 2010 SEC LEXIS 2186, at *2-3. Specifically, FINRA reviews and processes documents relating to announcements for two categories of issuer actions: actions related to announcements required under Exchange Act Rule 10b-17 and "Other Company-Related Actions" (collectively, "Company-Related Actions").[2]

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[1] As FINRA described in its April 21, 2025 Motion to Extend and its April 24, 2025 Reply to Shareholders' Opposition to that motion, pursuant to Commission Rule of Practice 161, FINRA requests that the Commission stay the deadline for the certification and filing of the record and index and stay the issuance of a briefing schedule while this motion to dismiss is pending. See 17 C.F.R. § 201.161. The Commission should first evaluate FINRA's dispositive arguments that the Shareholders are not the proper party to seek review and that their application for review should be dismissed as moot and on jurisdictional grounds before it reviews the entirety of the record and briefs on the merits in this matter.

[2] In addition to state corporate law requirements, an issuer with a class of publicly traded securities must comply with Exchange Act Rule 10b-17. *See Approval Order*, 2010 SEC LEXIS 2186, at *3-4 & n.6. Exchange Act Rule 10b-17 requires that an issuer provide FINRA with notice of proposed Company-Related Actions when its securities are not listed on a national securities exchange, or the SEC has not issued an exemption. *See* 17 C.F.R. § 240.10b-17(a), (b)(2), (3).

FINRA Rule 6490(a). These Company-Related Actions include stock splits, reverse stock splits, and any issuance or change to an issuer's symbol or name. FINRA Rule 6490(a)(2); *Positron*, 2015 SEC LEXIS 442, at *4.

FINRA Rule 6490 permits Operations to exercise its judgement to approve or deny an issuer's request to process a Company-Related Action.[3] *See Approval Order*, 2010 SEC LEXIS 2186, at *7. In approving Rule 6490, the Commission found the rule "consistent with the [Exchange] Act," and stated that "if FINRA believes that one of the enumerated factors [under Rule 6490(d)(3)] has been triggered[,] FINRA staff would conduct an in-depth review and follow up with the issuer to seek additional information or documentation." *Approval Order*, 2010 SEC LEXIS 2186, at *15, 20-21.

In its Approval Order, the Commission highlighted the rule's vital purpose: "to encourage issuers and their agents to provide complete, accurate and timely information to FINRA concerning Company-Related Actions involving OTC Securities, and thereby to prevent fraudulent and manipulative acts and practices with respect to these securities." *Id.* *16-17.

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[3] As part of its thorough consideration of an issuer's request to process Company-Related Actions, Operations may request additional information "as may be necessary" to complete its review and "verify the accuracy of the information submitted." *See* FINRA Rule 6490(b)(4); *Approval Order*, 2010 SEC LEXIS 2186, at *9; *see also Positron*, 2015 SEC LEXIS 442, at *6 (highlighting that Rule 6490 particularly authorizes Operations "to conduct in-depth reviews of issuers' requests"). Under FINRA Rule 6490(d)(3), FINRA may deny an issuer's application for Company-Related Action based on five specific factors. *See also Approval Order*, 2010 SEC LEXIS 2186, at *9 ("[I]f a request to process a Company-Related Action is deficient, and [FINRA] determines that it is necessary for the protection of investors and the public interest and to maintain fair and orderly markets, [FINRA] may determine that documentation related to a Company-Related Action shall not be processed.").

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If Operations elects to process an issuer's Company-Related Action, FINRA thereafter will announce the action on its website in a document known as the "Daily List," which announces the action to the OTC market. *Approval Order*, 2010 SEC LEXIS 2186, at *4 n.7; FINRA Rule 6490(d)(1); *mPhase Techs., Inc.*, Exchange Act Release No. 74187, 2015 SEC LEXIS 398, at *4 (Feb. 2. 2015); FINRA, *Over-the-Counter-Equities Daily List*, https://otce.finra.org/otce/dailyList (last visited May 2, 2025).

B. Entrex Submits Two Company-Related Actions Requests to Operations

On December 8, 2023, Entrex submitted a Company-Related Actions request, asking Operations to process documentation related to a proposed name and symbol change. Shareholders' Br., Exhibit 5 at unnumbered pages 4, 7. Two months later, on February 23, 2024, Entrex submitted a second Company-Related Actions request, asking Operations to process documentation related to a 1:20 reverse stock split.[4] Shareholders' Br., Exhibit 1 at unnumbered pages 4, 7.

C. The Shareholders File an Application for Review with the Commission

On April 8, 2025, while the issuer's two Company-Related Actions requests were pending before Operations, and before FINRA issued a final determination to process the requests, the Shareholders filed this application for review with the Commission. These Shareholders, however, do not constitute a "duly authorized representative" of the issuer under FINRA Rule 6490 and for purposes of this application for review. Only "[a]n issuer or other

[4] The Shareholders represent that Entrex also requested that Operations process documentation related to a "December 13, 2024 stock split." Shareholders' Br. at 7. Entrex's applications and Operations' decision to process the Company-Related Actions requests reflect only that the issuer requested the processing of a name and symbol change and a proposed 1:20 reverse stock split. Shareholders' Br., Exhibits 1 & 5 at unnumbered page 4; Shareholders' Opp'n, Exhibit 1.

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duly authorized representative of the issuer may request that FINRA process documentation related to an [Exchange Act] Rule 10b-17 Action or Other Company-Related Action," appeal Operations' deficiency determination to FINRA's Uniform Practice Code Committee ("UPCC"), and thereafter appeal a denial by the UPCC to the Commission. FINRA Rule 6490(b), (e).

In Entrex's requests to FINRA for processing of the Company-Related Actions, the issuer listed "Jim Byrd" or "James S. Byrd" as its duly authorized representative and certified that Byrd (and by extension, his law firm) was the person on behalf of the issuer who has "all necessary authority to submit this form on behalf of the named Issuer and to respond to communications related to this form." Shareholders' Br., Exhibits 1 & 2 at unnumbered pages 2, 7.

In addition to the reasons set forth in this motion, the Commission should dismiss the Shareholders' application because these Shareholders are not the proper party with the necessary authority of the issuer under FINRA Rule 6490 to seek review, and indeed, the Shareholders admit that they "[c]annot rely on the Company alone to seek relief." Shareholders' Br. at 10.

D. Operations Issues a Decision on Entrex's Requests

The process set forth under Rule 6490 described above is what occurred in this case. After conducting its review of Entrex's requests, Operations issued a final determination on Entrex's Company-Related Actions requests on April 21, 2025. Shareholders' Opp'n, Exhibit 1. Also, on April 21, 2025, FINRA announced on the Daily List Entrex's name and symbol changes. *Id.*; April 21, 2025 Daily List Announcement, attached as FINRA's Exhibit 1. Consistent with the issuer's request, FINRA later announced on the Daily List Entrex's 1:20 reverse split, on April 24, 2025. Shareholders' Opp'n, Exhibit 1; April 24, 2025 Daily List Announcement, attached as FINRA's Exhibit 2.

III. ARGUMENT

The Commission should dismiss the Shareholders' application for review based on mootness and because the Commission lacks a statutory basis to exercise jurisdiction.

A. The Shareholders Concede that Their Demand for Operations to Issue a Decision Is Moot

In their application for review, the Shareholders requested that the Commission order FINRA to issue a determination on Entrex's Company-Related Actions requests. Shareholders' Br. at 15. The Shareholders now concede that because Operations issued a determination to process the Company-Related Actions requests, this aspect of their application for review is moot. Shareholders' Opp'n at 3. Specifically, on April 21, 2025, Operations notified Entrex of its decision to process the Company-Related Actions requests. Shareholders' Opp'n, Exhibit 1. FINRA thereafter announced on the Daily List the name and symbol changes on April 21, 2025, and the reverse stock split on April 24, 2025. FINRA's Exhibits 1, 2. Consequently, FINRA has issued the determination that the Shareholders sought; therefore, this aspect of the Shareholders' application for review is moot.

In other cases, the Commission has "declined to consider an appeal where even a favorable decision by the Commission would entitle [the applicant] to no relief" and dismissed the appeal as moot. *Marshall Fin. Inc.*, 57 S.E.C. 869, 877-78 & n.25 (2004) (internal quotations omitted) (dismissing based on mootness and declining to reach whether appeal would also be precluded by a lack of jurisdiction); *see, e.g.*, *Burst.Com, Inc.*, Exchange Act Release No. 43198, 2000 SEC LEXIS 1735, at *1 (Aug. 23, 2000) (dismissing as moot applicant's appeal of NASD's decision to remove quotations of the applicant's securities from the OTC Bulletin Board when, after reissuing the decision, NASD found that applicant met the requirements for being listed). For example, in *Alpine Sec. Corp.*, the rules at issue in the appeal had been

repealed, and even if a jurisdictional challenge under Section 19(d) was available (which it was not), the Commission "could not grant any relief with respect to Alpine's challenge to" the rules. Exchange Act Release No. 98868, 2023 SEC LEXIS 3223, at *22-23 (Nov. 6, 2023). Because there was "no effective relief" the Commission could grant, it found that the application was moot. *Id.* at *24.

Here, Operations has issued its determination to process Extrex's Company-Related Actions requests and the Shareholders, in this respect, have received the specific relief they seek. *See Thaddeus J. North*, Exchange Act Release No. 81661, 2017 SEC LEXIS 2911, at *2 (Sept. 19, 2017) (denying stay request as moot because applicant "already possesses the specific relief he seeks"); *see also J.W. Korth & Co.*, Exchange Act Release No. 86890, 2019 SEC LEXIS 2502, at *1 (Sept. 5, 2019) (order denying motion for stay as moot because FINRA already stayed sanctions on appeal).

The Commission should dismiss this aspect of the Shareholders' application based on mootness. In doing so, the Commission should refrain from addressing any of the merits-based arguments that the Shareholders advance. *See Shlomo Sharbat*, Exchange Act Release No. 93757, 2021 SEC LEXIS 3647, at *12 (Dec. 13, 2021) (declining to reach respondent's arguments related to Hearing Officer's decision because respondent "failed to exhaust his administrative remedies before FINRA"); *see also Edward J. Jakubik*, Exchange Act Release No. 61541, 2010 SEC LEXIS 1014, at *16-17 (Feb. 18, 2010) (rejecting applicant's challenges to the decision in the underlying proceeding when dismissing the application for review for failure to exhaust administrative remedies); *Lance E. Van Alstyne*, 53 S.E.C. 1093, 1100 n.20 (1998) ("Because we lack jurisdiction to review Van Alstyne's application for review, we do not consider the merits of the allegations concerning rule violations.").

B. The Commission Lacks Jurisdiction over the Shareholders' Demand for Operations to Issue a Determination on the Company-Related Actions Requests

An additional reason why the Commission should dismiss the Shareholders' demand for a FINRA decision on Entrex's Company-Related Actions requests is that the Commission lacks jurisdiction to consider it.

The Commission's authority to review FINRA actions is governed by Section 19(d) of the Exchange Act, which grants the Commission authority to review only four classes of actions by a self-regulatory organization ("SRO"). 15 U.S.C. § 78s(d). Specifically, Section 19(d) authorizes Commission review of an SRO action only if that action: (1) imposes any final disciplinary sanction on any member (or person associated with a member) of the SRO or participant therein; (2) denies membership or participation to any applicant; (3) prohibits or limits any person in respect to access to services offered by such organization or member thereof; or (4) bars any person from becoming associated with a member. 15 U.S.C. § 78s(d)(1), (2).[5]

The Commission has ruled repeatedly in other cases that these four grounds are the only ones upon which a review of FINRA action can occur. *See Allen Douglas Sec., Inc.*, 57 S.E.C. 950, 955 (2004); *see, e.g.*, *John Boone Kincaid III*, Exchange Act Release No. 87384, 2019 SEC LEXIS 4189, at *6-7 (Oct. 22, 2019) (dismissing application when none of the four bases for the Commission's jurisdiction existed); *Eric David Wanger*, Exchange Act Release No. 79008, 2016 SEC LEXIS 3770, at *11 (Sept. 30, 2016) (same); *WD Clearing, LLC*, Exchange Act Release

[5] "The grounds for Commission jurisdiction enumerated in [Commission Rule of Practice] 420(a) are the same as those described in Section 19(d)(1) of the Exchange Act." *Lawrence Gage*, Exchange Act Release No. 54600, 2006 SEC LEXIS 2327, at *11-12 (Oct. 13, 2006).

No. 75868, 2015 SEC LEXIS 3699, at **2, 10, 20 (Sept. 9, 2015) (dismissing for lack of jurisdiction and no exhaustion of administrative remedies); *Russell A. Simpson*, 53 S.E.C. 1042, 1046 (1998) ("Section 19(d) does not, however, grant [the Commission] jurisdiction to review disciplinary actions generally, but only those in which a final disciplinary sanction is imposed."); *Morgan Stanley & Co.*, 53 S.E.C. 379, 382, 384 (1997) (explaining that Section 19(d) authorizes Commission review when FINRA takes action denying or restricting membership or prohibiting or limiting a member firm's access to services offered by FINRA). The Commission does not have jurisdiction simply because an applicant claims "extraordinary circumstances" or "compelling reasons." *Allen Douglas*, 57 S.E.C. at 955 n.14.

The Commission reviews FINRA's *denials* of issuers' requests to process Company-Related Actions as denials of access to services. *See mPhase*, 2015 SEC LEXIS 398, at *16 & n.29. Because FINRA determined to process Entrex's Company-Related Actions requests, there is no denial of access over which the Commission has jurisdiction to review. For this reason too, the Commission should dismiss the Shareholders' application for review.

C. The Commission Lacks Jurisdiction over the Request to Disgorge Fees

The Commission also lacks jurisdiction over the Shareholders' request to order FINRA to "disgorge all the [Company-Related Actions requests] fees collected from Entrex, with interest." Shareholders' Br. at 16. The Commission lacks jurisdiction over any such request because the requirement on the issuer to pay fees is by operation of rule, and none of Section 19(d)'s jurisdictional grounds apply.

Under Rule 6490(c), the issuer or other duly authorized representative of the issuer is obligated to pay the "non-refundable fees for the review and processing of documentation related

to" Company-Related Actions.[6] In addition, all Company-Related Actions requests "must be accompanied by proof of payment of the requisite fee when appropriate in accordance with" the FINRA Rule 6490(c) fee schedule. FINRA Rule 6490(d)(1). Indeed, when approving the fees, the Commission stated, "that [the fees] are equitably allocated because they apply to *any* Requesting Party that submits a request to process a Company-Related Action (other than those enumerated actions for which no fees would be charged)." *Approval Order*, 2010 SEC LEXIS 2186, at *26 (emphasis added).

The Commission has explained that requirements imposed by automatic operation of FINRA's rules, like the requirement on issuers to pay non-refundable processing fees here, do not meet any of Section 19(d)'s jurisdictional criteria. A party's "desire for relief from the operation of [a] rule[] is not a valid jurisdictional ground for [] review." *See WD Clearing*, 2015 SEC LEXIS 3699, at *14 (determining the Commission lacked jurisdiction to review firm's desire for relief from operation of FINRA rules that necessitated interim restrictions during the processing of a continuing membership application); *see also Morgan Stanley*, 53 S.E.C. at 384-85 (determining the Commission lacked jurisdiction to review FINRA's denial of a firm's request for an exemption from an automatic ban on engaging in certain municipal securities business). This remains true even when the regulatory requirement at issue imposes an affirmative obligation resulting in financial costs. *See Joseph Dillon & Co.*, 54 S.E.C. 960, 964-65 (2000) (finding no denial of access to services when NASD denied exemption from taping

[6] The Commission approved these "non-refundable fees" to "offset some of the significant costs that FINRA currently bears for the benefit of issuers of OTC Securities that are not otherwise paying to support the OTC symbol database and the processing of Company-Related Actions." *Approval Order*, 2010 SEC LEXIS 2186, at *12-13. In approving the non-refundable fees required by Rule 6490, the Commission determined the "fees to review requests to process Company-Related Actions are consistent with the [Exchange] Act." *Id.* at *26.

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rule that resulted in financial cost because "[the] costs [are] necessary for the protection of investors").

In addition, there is no denial of access to services here when FINRA Rule 6490 requires any issuer asking FINRA to process Company-Related Actions requests to pay these non-refundable processing fees and FINRA does not offer a service of reimbursing them. *See Constantine Gus Cristo*, Exchange Act Release No. 86018, 2019 SEC LEXIS 1284, at *12 (June 3, 2019) (finding no denial of access to a service when FINRA does not offer that service); *Approval Order*, 2010 SEC LEXIS 2186, at *26.

The requirement of an issuer to pay fees for processing Company-Related Actions requests also does not change membership status or relate to the membership process. *See Morgan Stanley*, 53 S.E.C. at 384. As the Commission has explained, a denial of membership or participation "occurs when an SRO denies applications for membership or imposes restrictions on business activities *as a condition of membership*." *Cristo*, 2019 SEC LEXIS 1284, at *14 (emphasis added); *see Wanger*, 2016 SEC LEXIS 3770, at *14; *see also Gage*, 2006 SEC LEXIS 2327, at *17 ("[A]n action by a self-regulatory organization that merely subjects a member to a rule of general applicability does not constitute a denial of membership."). Entrex is not a FINRA member, nor has it applied to FINRA for membership. *See Wanger*, 2016 SEC LEXIS 3770, at *14-15.

The requirement for issuers to pay non-refundable processing fees also do not amount to disciplinary sanctions because they are not imposed based on a determination of wrongdoing. *See Morgan Stanley*, 53 S.E.C. at 382. And while the requirement to pay fees may impose a burden on the issuer, it does not amount to a bar from FINRA membership. *See id.* at 385-86.

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The Shareholders' request for reimbursement of nonrefundable fees plus interest is essentially asking for damages. The Commission, however, has determined that it "lack[s] the authority" under the Exchange Act to order FINRA to pay damages or reimburse fees. *See BlackBook Cap., Inc.*, Exchange Act Release No. 97027, 2023 SEC LEXIS 524, at *11 & n.22 (Mar. 2, 2023) (dismissing for lack of jurisdiction under Section 19(d)); Exchange Act Section 19(e) & (f), 15 U.S.C. § 78s(e) & (f) (describing the relief that the Commission may provide in its review of FINRA proceedings); *see also, e.g.*, *Citadel Sec. LLC*, Exchange Act Release No. 78340, 2016 SEC LEXIS 2464, at *13-14 (July 15, 2016) ("We do not have authority to award damages under Section 19(f)."), *aff'd*, 889 F.3d 837 (7th Cir. 2018); *John Joseph Plunkett*, Exchange Act Release No. 73124, 2014 SEC LEXIS 3396, at *23 (Sept. 16, 2014) (finding that awarding damages to applicant is "beyond the scope of our authority" under the Exchange Act); *Sky Capital LLC*, Exchange Act Release No. 55828, 2007 SEC LEXIS 1179, at *9 & n.11 (May 30, 2007) (finding no Commission authority to grant the relief sought including awarding damages and penalties under Exchange Act Sections 19(e) and (f)); *Marshall Fin.*, 57 S.E.C. at 877 & n.21 ("Exchange Act Section 19 does not appear to authorize the setting aside of [the SRO's] Fees assessment or authorize remission of the Fees.").

The Commission should dismiss for lack of jurisdiction the Shareholders' request to order FINRA to disgorge nonrefundable fees.

D. The Commission Lacks Jurisdiction over the Shareholders' Requests for Rulemaking and Process Reforms and Their Constitutional Challenges

The Shareholders' demand for the Commission's review and amendment of FINRA Rule 6490 to "impose necessary reforms on FINRA's Rule 6490 processing" and their constitutional challenges to FINRA's Company-Related Actions process (Shareholders' Br. at 12-14, 16;

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Shareholders' Opp'n at unnumbered page 4) are likewise not reviewable under any of the prongs that establish Commission jurisdiction under Section 19(d) of the Exchange Act.

In another matter in which a respondent challenged FINRA rules, including various constitutional challenges, the Commission dismissed the application for a lack of jurisdiction. *See Cristo*, 2019 SEC LEXIS 1284, at *17, 20. The Commission explained that "[e]ven if the Commission instituted rulemaking proceedings, under Section 19(c),[7] that would not create jurisdiction under Section 19(d) over [the respondent's] application for review." *Id.* at *17; *cf. Matthew Brian Proman*, Exchange Act Release No. 57740, 2008 SEC LEXIS 956, at *9 n.15 (Apr. 30, 2008) (explaining that Exchange Act Section 19(d) did not permit the Commission to direct FINRA "to establish prospectively a formal procedure" for barred individuals to request that FINRA vacate their sanctions; "Exchange Act Section 19(d) does not provide for such relief"). Moreover, the Commission approved the provisions about which the Shareholders complain. *See Approval Order*, 2010 SEC LEXIS 2186 at *15, 20-21; *see, e.g.*, *Cristo*, 2019 SEC LEXIS 1284, at *17 (highlighting the Commission's approval of the rules about which

[7] The Shareholders invoke Section 19(h) of the Exchange Act to justify the Commission's jurisdiction to review their request. Shareholders' Br. at 16. Section 19(h) authorizes the Commission to institute proceedings to determine whether an SRO "has violated . . . any provision of . . . its own rules" and to take appropriate remedial action in response. Section 19(h), however, does not provide for the Commission's jurisdiction over the Shareholders' application for review. *See, e.g.*, *Citadel Sec.*, 2016 SEC LEXIS 2464, at *5 (finding that the Commission's discretionary authority to bring an administrative proceeding against an SRO under Exchange Act Section 19(h)(1), even if exercised, would not confer jurisdiction over a petition for an administrative remedy); *Kincaid*, 2019 SEC LEXIS 4189, at *14 & 16-17 n.28 (rejecting respondent's call for the Commission to exercise jurisdiction based on the Commission's SRO oversight role and other statutory authorities); *Orbixa Techs., Inc.*, Exchange Act Release No. 70893, 2013 SEC LEXIS 3588, at *17 & n.20 (Nov. 15, 2013) (recognizing that, because the Commission lacked jurisdiction under Section 19(d), it lacked the ability to review applicant's contention that the SRO violated Exchange Act rules).

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respondent complained and dismissing application for lack of jurisdiction over respondent's request for Commission review of FINRA rules).

Regarding the Shareholders' constitutional claims, the Commission has held that "an applicant's efforts to present a claim against FINRA as a constitutional violation do[es] not create authority for [the Commission] under Exchange Act Section 19(d) to entertain [an] application for review of the actions FINRA took." *BlackBook*, 2023 SEC LEXIS 524, at *10; *see also Cristo*, 2019 SEC LEXIS 1284, at *20. Irrespective of the Shareholders' complaints about Operations' review process, the Commission does not have jurisdiction to review that process now simply because the Shareholders claim that process "adversely affects" them or issuers. *See WD Clearing*, 2015 SEC LEXIS 3699, at *10.

The Commission should likewise find it has no jurisdiction to review the Shareholders' claims here.

IV. CONCLUSION

The Commission should dismiss the Shareholders' application for review based on mootness and lack of jurisdiction. Operations has issued a decision agreeing to process Entrex's Company-Related Actions requests; thus, the Shareholders' demand for Operations to issue a determination is moot. Moreover, none of the Shareholders' demands fall within any of the four categories of actions subject to Commission review under Section 19(d) of the Exchange Act. Because the Shareholders' application fails to meet the threshold requirement for jurisdiction under Section 19(d), the Commission lacks jurisdiction to address the Shareholders' complaints.

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While the Commission resolves the preliminary issues raised by this motion, it should stay the deadline for the certification and filing of the record and index[8] and the issuance of a briefing schedule while this motion is pending.[9]

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[8] Should the Commission order FINRA to file a certified copy of the record and index under Commission Rule of Practice 420(e), FINRA moves under Commission Rule of Practice Rule 322 for a protective order to limit from disclosure to the Shareholders the index of the record in this matter. Under Commission Rule of Practice 322, parties may seek to "limit from disclosure to other parties or to the public documents or testimony that contain confidential information." The Commission grants a motion for a protective order "only upon a finding that the harm resulting from disclosure would outweigh the benefits of disclosure." 17 C.F.R. § 201.322(c). The harm that could result from disclosure of the index to the Shareholders substantially outweighs the benefits of disclosure. These Shareholders are not the "duly authorized representative" of the issuer under Rule 6490. The index will include, among other things, sensitive information about, and in support of, the issuer's Company-Related Actions requests and information related to corporate governance and transactions that are sensitive to the issuer and to which these Shareholders are not entitled.

In previous matters in which the Commission has granted a motion for a protective order, the Commission has stressed the sensitive nature of the information the movant sought to protect. *See, e.g.*, *Paul L. Chancey, Jr., CPA*, Exchange Act Release No. 92734, 2021 SEC LEXIS 2381, at *1-2 (Aug. 23, 2021) (finding that documents reflecting proprietary sales practices met the standard for a protective order); *Laurie Bebo*, Exchange Release No. 77204, 2016 SEC LEXIS 654, at *1 (Feb. 22, 2016) (granting motion to protect a financial disclosure document because it contained confidential financial information and personally identifiable information such as movant's social security number and address); *Nature's Sunshine Products, Inc.*, Exchange Act Release No. 59181, 2008 SEC LEXIS 2846, at *2 (Dec. 30, 2008) (granting motion to protect "sensitive information concerning a[n] [ongoing] law enforcement investigation" against one of the parties). The Commission should not require FINRA to provide a copy of the index to these Shareholders when they are not the "duly authorized representative" of the issuer as set forth in Entrex's two requests to Operations for processing of the issuer's Company-Related Actions, and they are not entitled to this information. *See* Commission Rule of Practice 420(e), 17 C.F.R. § 201.420(e); FINRA Rule 6490(b); Shareholders' Br., Exhibits 1 & 5 at unnumbered pages 2, 7.

[9] The Commission should also deny the Shareholders' request for oral argument because the Commission's "decisional process would" not "be significantly aided by oral argument." *See* SEC Rule of Practice 451(a), 17 C.F.R. § 201.451(a); *see, e.g.*, *Cristo*, 2019 SEC LEXIS 1284, at *2 n.1 (denying request for oral argument). The issues raised in the pending application can be determined based on the papers filed by the parties, without the Commission hearing oral argument. *See, e.g.*, *mPhase*, 2014 SEC LEXIS 1495, at *1 (denying request for oral argument in appeal by an issuer in a Rule 6490 case).

Respectfully submitted,

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May 2, 2025

OS Received 05/02/2025

CERTIFICATE OF COMPLIANCE

I, Jennifer Brooks, certify that:

(1) FINRA's Motion to Dismiss the Application for Review and to Stay the Deadline for Filing of the Certified Record and Index and the Issuance of a Briefing Schedule complies with SEC Rule of Practice 151(e) because it omits or redacts any sensitive personal information; and

(2) FINRA's Motion to Dismiss the Application for Review and to Stay the Deadline for Filing of the Certified Record and Index and Issuance of a Briefing Schedule complies with the limitation set forth in SEC Rule of Practice 154(c). I have relied on the word count feature of Microsoft Word in verifying that this brief contains 5,142 words.

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Dated: May 2, 2025

CERTIFICATE OF SERVICE

I, Jennifer Brooks, certify that on this 2nd day of May 2025, I caused a copy of the foregoing Motion to Dismiss and to Stay the Deadline for Filing of the Certified Record and Index and the Issuance of a Briefing Schedule, in the matter of Application for Review of Entrex Carbon Market, Inc. (f/k/a UHF Logistics Group, Inc.) Shareholders, Administrative Proceeding File No. 3-22473, to be filed through the SEC's eFAP system.

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