



Opening Statement by

Jacob S. Frenkel

Member Partner and Chair of Government Investigations and Securities
Enforcement Practice

before the

United States House of Representatives

Committee on Financial Services

**Subcommittee on Investor Protection, Entrepreneurship and
Capital Markets**

on

**“Insider Trading and Stock Option Grants: An Examination of
Corporate Integrity in the Covid-19 Pandemic”**

September 17, 2020

**Opening Statement of Jacob S. Frenkel for the Committee on Financial Services,
Subcommittee on Investor Protection, Entrepreneurship and Capital Markets,
Hearing on “Insider Trading and Stock Option Grants: An Examination of
Corporate Integrity in the Covid-19 Pandemic,” September 17, 2020**

Good afternoon, Chairman Sherman, Ranking Member Huizenga, and distinguished members of this Subcommittee.

Thank you for giving me the opportunity to testify on critical issues impacting our capital markets. My perspective comes from 32 years of professional experience in capital markets enforcement, investigations, governance and integrity issues, including my work at the Securities and Exchange Commission’s Division of Enforcement, as a federal prosecutor of public corruption and securities violations, and as an actively practicing defense and governance lawyer for more than 21 years.

I believe that in 2020, unlike 20 or more years ago pre-Enron, most corporate boards and management want to get it right. Nevertheless, we still see capital markets activity that gives rise to questions about commitments to compliance and fundamental common law duties that are the responsibility of corporate custodians. This Committee has identified insider trading, Rule 105-1 plans and stock options grants – spring-loading and bullet-dodging – as issues of heightened interest and warranting consideration of legislation.

Beyond these undeniable vital areas of concern, I suggest to the Committee, respectfully, that Covid-19 solutions-related capital markets activities also should invite scrutiny of several other issues. They include:

- First -- Regulation FD and its inapplicability to foreign private issuers. We saw the effect of the exemption two weeks ago when Astrazeneca’s CEO disclosed on a non-public call arranged by JP Morgan about its suspension of vaccine clinical trials as a result of an unexplained illness in a trial participant. If Astrazeneca had been a US issuer, then there likely would have been an obligation for prompt public disclosure of what appeared to be an unintentional selective disclosure.
- Second is the SEC’s 10-day trading suspension authority, which operates like a court-imposed temporary restraining order; however, it is not an enforcement action but operates as an administrative arrow through the heart of legitimate small entrepreneurial public companies. For trading suspensions that issuers contest, the SEC takes months if not longer to resolve the challenge. Legislation should dictate a precise and narrow time frame for making the decision.
- Third is delegation of authority to authorize formal orders of investigation at the SEC. For decades, the Commission alone made the decision. Post-Madoff, the authority was delegated into the Enforcement Division,

what I and others viewed as an out-of-control practice in the previous SEC administration. Although SEC Chairman Clayton has reined in this delegation of authority, I believe that Congress intended for the Commissioners to decide whom to investigate and to make the solemn decision about authorizing subpoena power, much like a federal judge reviews and approves search warrant applications.

- And, fourth is trade clearance and conflict of interest disclosure policies, and whether they should apply to NIH Advisory panels. The question for consideration is what level of transparency should exist to enable you on Capitol Hill and the public to assess possible conflicts of interest among scientific and technical peer review advisers who are not subject to the Federal Advisory Committee Act.

These are not instead of but are in addition to the important issues already identified by this Subcommittee. I hope that we will be able to discuss each of these issues this afternoon.

Finally, you have asked that we address the importance of corporate integrity during the COVID-19 pandemic and the impact it has on investor protection and overall market integrity. I believe that is too narrow. Corporate integrity -- a commitment to best practices and proper governance, including a conscientious discharge of common law fiduciary duties, and a constant focus on investor protection and market integrity -- was, is during the pandemic, and always will be and must be guiding principles in corporate boardrooms and c-suites for US capital markets participants.

I complement the Committee for highlighting the importance of and addressing these issues with this hearing. I look forward to answering your questions this afternoon.

Thank you.

Vaxart, Inc.

(NASDAQ: VXRT)

Congressional Testimony of Jacob Frenkel

Member, Chair of Government Investigations & Securities Enforcement Practice

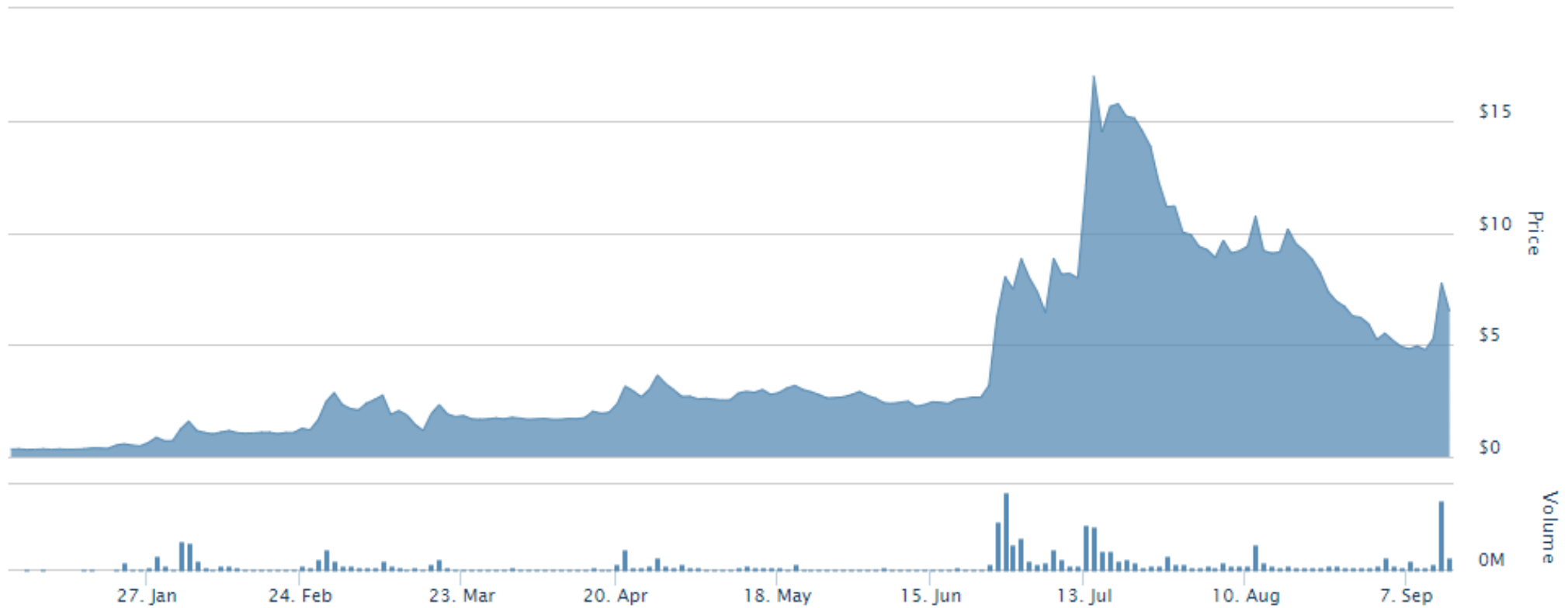
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2020 YTD Chart for Vaxart, Inc. (NASDAQ: VXRT)

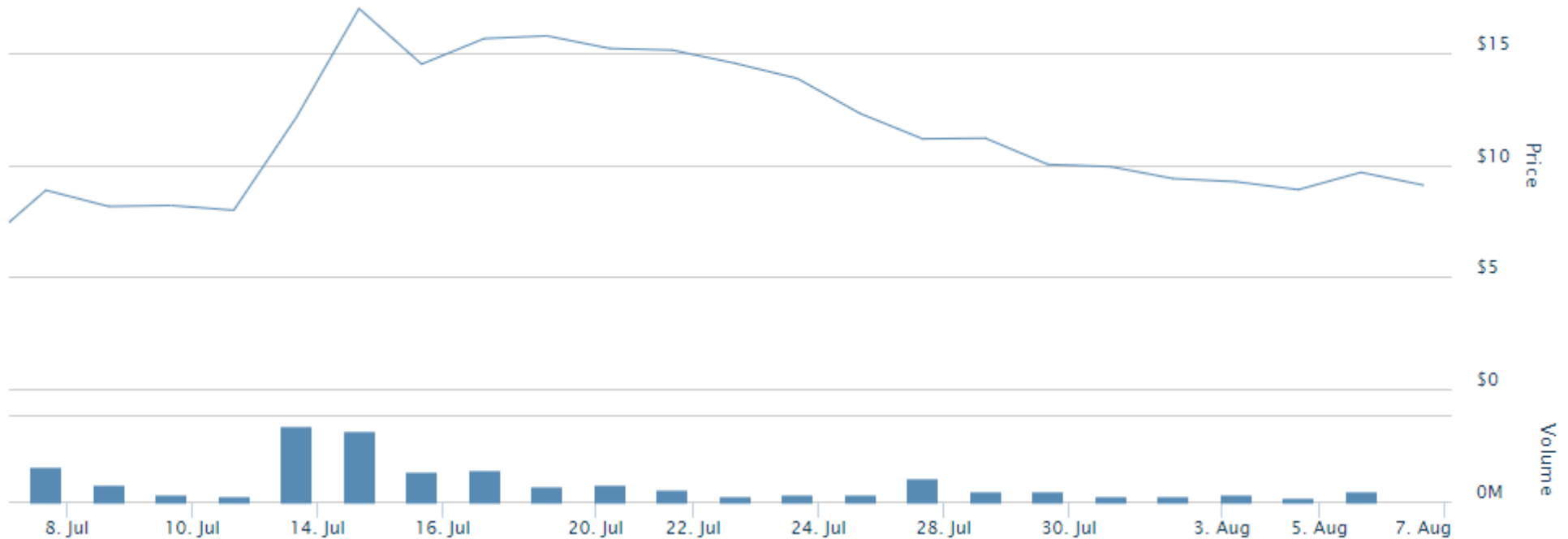


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July 9-Aug. 5, 2020, Historical Data for Vaxart, Inc. (NASDAQ: VXRT)



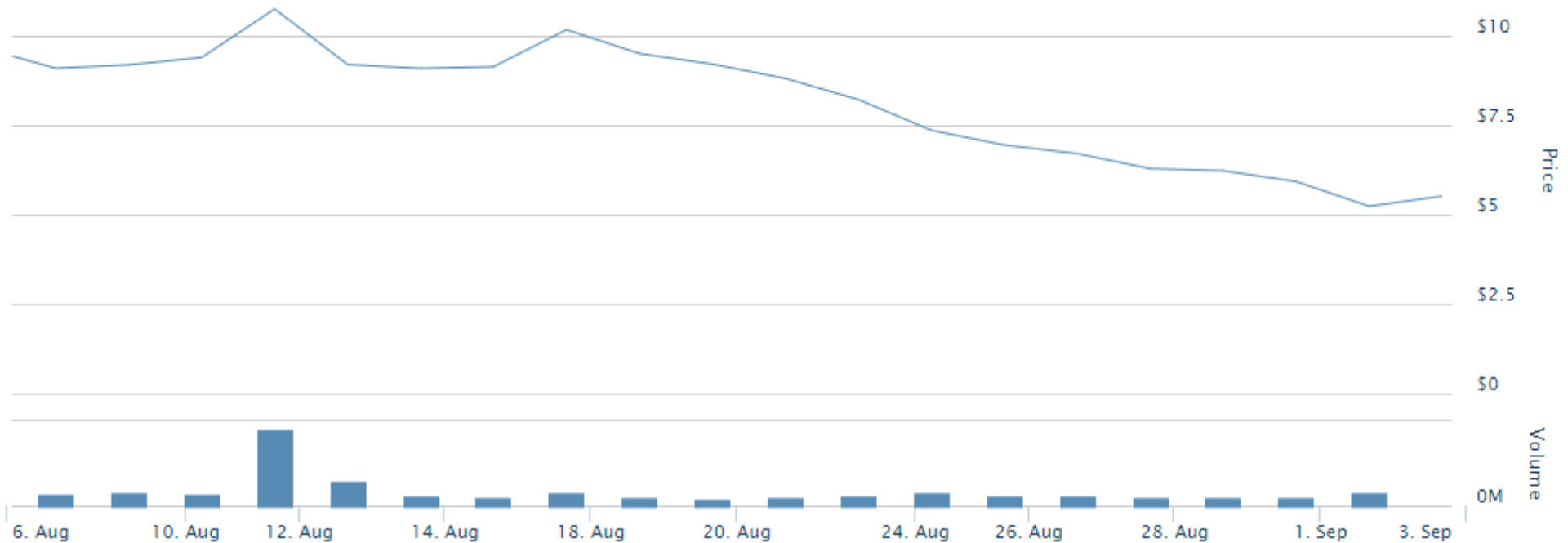
Date	Open	High	Low	Close	Volume	% Chg	\$ Chg	Trade Val	# Trades
2020-08-05	9.75	10.99	9.62	9.665	20.52m	8.66%	0.77	207,711,871.00	76,259
2020-08-04	8.95	9.23	8.81	8.895	8.74m	-3.84%	-0.355	78,915,621.10	43,333
2020-08-03	9.17	9.74	8.45	9.25	13.96m	-1.49%	-0.14	126,558,876.00	56,556
2020-07-31	9.97	10.15	9.34	9.39	9.30m	-5.34%	-0.53	89,868,302.20	39,460
2020-07-30	9.54	10.40	9.53	9.92	9.95m	-1.00%	-0.10	99,531,650.50	37,760
2020-07-29	10.92	11.46	9.811	10.02	17.89m	-10.46%	-1.17	184,468,495.00	65,607
2020-07-28	11.30	12.25	10.511	11.19	18.55m	0.27%	0.03	217,429,483.00	68,345
2020-07-27	10.34	11.99	9.16	11.16	42.45m	-9.19%	-1.13	443,242,496.00	147,762
2020-07-24	13.01	13.12	12.00	12.29	14.63m	-11.26%	-1.56	183,156,180.00	59,987
2020-07-23	14.07	14.70	13.22	13.85	14.77m	-4.68%	-0.68	206,544,767.00	64,335
2020-07-22	14.65	14.75	14.13	14.53	9.48m	-3.87%	-0.585	137,166,579.00	47,831
2020-07-21	14.58	15.97	13.61	15.115	21.54m	-0.49%	-0.075	318,747,132.00	89,869
2020-07-20	16.567	16.878	14.77	15.19	31.42m	-3.56%	-0.56	493,012,006.00	121,030
2020-07-17	15.95	16.65	15.40	15.75	27.92m	0.77%	0.12	446,435,159.00	105,702
2020-07-16	14.09	17.15	14.00	15.63	56.50m	7.87%	1.14	903,933,548.00	204,523
2020-07-15	15.53	15.98	13.50	14.49	55.42m	-14.61%	-2.48	813,589,521.00	219,465
2020-07-14	13.17	17.49	13.03	16.97	127.59m	40.02%	4.85	1,947,859,900.00	469,969
2020-07-13	9.02	13.53	8.56	12.12	134.33m	51.88%	4.14	1,455,349,680.00	377,774
2020-07-10	8.05	8.15	7.61	7.98	10.35m	-2.56%	-0.21	81,721,775.10	36,410
2020-07-09	7.98	8.50	7.891	8.19	12.83m	0.49%	0.04	105,102,991.00	42,876

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Aug. 6-Aug. 31, 2020, Historical Data for Vaxart, Inc. (NASDAQ: VXRT)



Date	Open	High	Low	Close	Volume	% Chg	\$ Chg	Trade Val	# Trades
2020-08-31	6.30	6.60	5.90	5.93	9.38m	-4.82%	-0.30	57,705,997.00	39,494
2020-08-28	6.30	6.41	5.882	6.23	8.54m	-0.95%	-0.06	52,370,190.80	34,784
2020-08-27	6.60	6.60	6.21	6.29	8.65m	-6.26%	-0.42	55,115,588.90	36,672
2020-08-26	6.9166	7.16	6.545	6.71	9.49m	-3.45%	-0.24	64,788,500.80	39,332
2020-08-25	6.93	7.55	6.6502	6.95	10.72m	-5.57%	-0.41	75,677,285.50	43,511
2020-08-24	7.89	7.98	6.85	7.36	13.32m	-10.46%	-0.86	97,506,866.80	50,049
2020-08-21	8.76	8.84	8.10	8.22	9.66m	-6.70%	-0.59	80,256,732.50	37,590
2020-08-20	9.10	9.20	8.77	8.81	8.92m	-4.34%	-0.40	79,914,325.00	39,970
2020-08-19	9.2835	9.52	9.08	9.21	6.98m	-3.10%	-0.295	64,252,218.20	29,811
2020-08-18	10.00	10.31	9.41	9.505	8.39m	-6.54%	-0.665	81,453,635.80	32,662
2020-08-17	9.155	10.49	9.155	10.17	13.76m	11.27%	1.03	136,314,607.00	48,498
2020-08-14	9.15	9.54	9.04	9.14	9.08m	0.55%	0.05	83,987,120.90	33,110
2020-08-13	8.99	9.59	8.93	9.09	10.43m	-1.20%	-0.11	95,688,274.40	43,061
2020-08-12	10.56	10.70	8.91	9.20	24.33m	-14.42%	-1.55	228,627,781.00	96,480
2020-08-11	9.38	12.49	8.8399	10.75	74.25m	14.42%	1.355	823,055,664.00	229,627
2020-08-10	9.61	9.86	9.27	9.395	12.35m	2.23%	0.205	118,182,142.00	47,553
2020-08-07	9.89	10.20	9.19	9.19	13.78m	1.05%	0.095	131,567,049.00	49,288
2020-08-06	9.86	10.04	9.04	9.095	11.93m	-5.90%	-0.57	113,571,246.00	50,891

SG Blocks, Inc.

(NASDAQ: SGBX)

Congressional Testimony of Jacob Frenkel

Member, Chair of Government Investigations & Securities Enforcement Practice

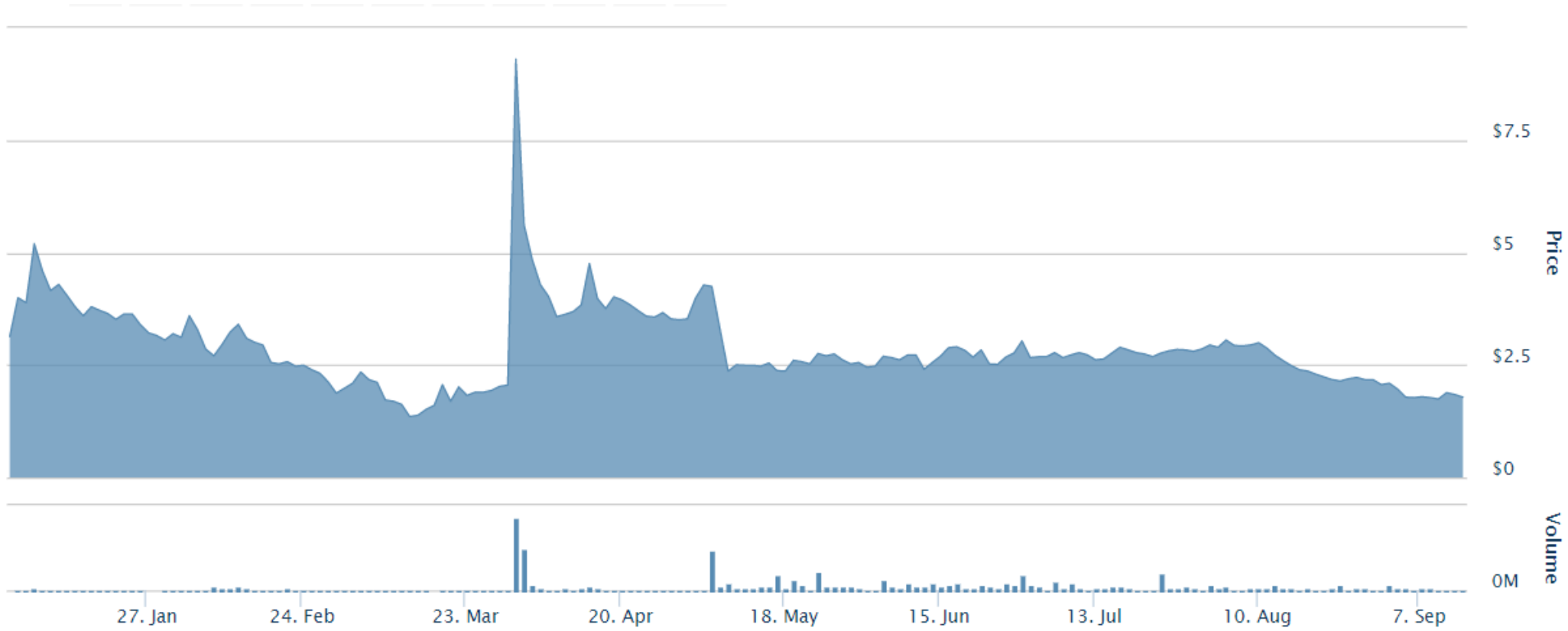
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2020 YTD Chart for SG Blocks, Inc. (NASDAQ: SGBX)



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March 30-April 6, 2020, Historical Data for SG Blocks, Inc. (NASDAQ: SGBX)



Date	Open	High	Low	Close	Volume	% Chg	\$ Chg	Trade Val	# Trades
2020-04-06	4.29	4.6782	3.90	4.03	474.27k	-6.06%	-0.26	1,974,240.05	2,679
2020-04-03	4.65	5.44	4.12	4.29	814.88k	-11.55%	-0.56	3,749,949.88	4,613
2020-04-02	5.00	5.98	4.41	4.85	1.67m	-13.70%	-0.77	8,488,714.65	9,216
2020-04-01	6.39	9.74	4.84	5.62	12.22m	-39.57%	-3.68	87,894,845.90	68,624
2020-03-31	3.80	9.74	3.26	9.30	21.43m	351.46%	7.24	138,564,640.00	122,763
2020-03-30	2.10	2.165	1.90	2.06	50.78k	1.48%	0.03	97,872.73	321
2020-03-27	1.96	2.30	1.8118	2.03	94.73k	4.64%	0.09	194,815.20	414
2020-03-26	1.90	2.10	1.7788	1.94	89.11k	2.11%	0.04	169,568.63	420
2020-03-25	1.95	2.11	1.76	1.90	74.35k	-0.03%	-0.0005	146,784.81	368
2020-03-24	1.95	2.00	1.805	1.9005	49.06k	3.85%	0.0705	94,526.34	280

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Moderna, Inc.

(NASDAQ: MRNA)

Congressional Testimony of Jacob Frenkel

Member, Chair of Government Investigations & Securities Enforcement Practice

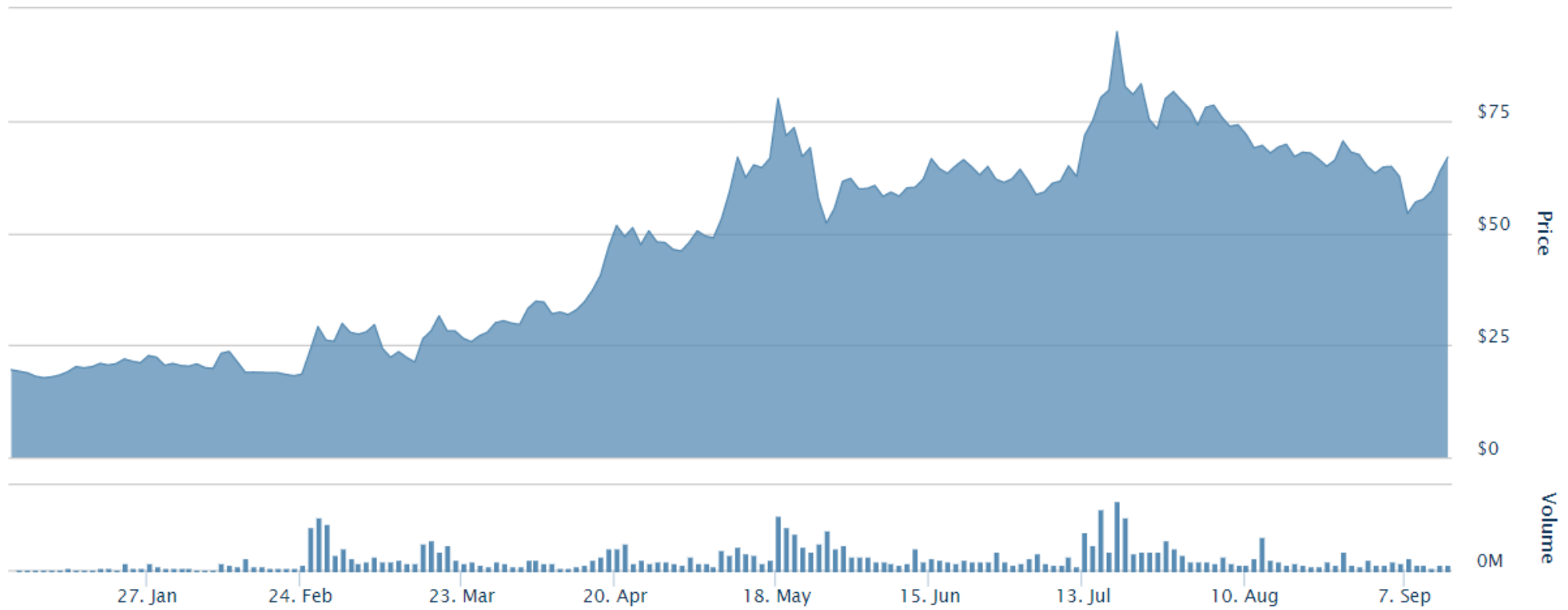
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2020 YTD Chart for Moderna, Inc. (NASDAQ: MRNA)

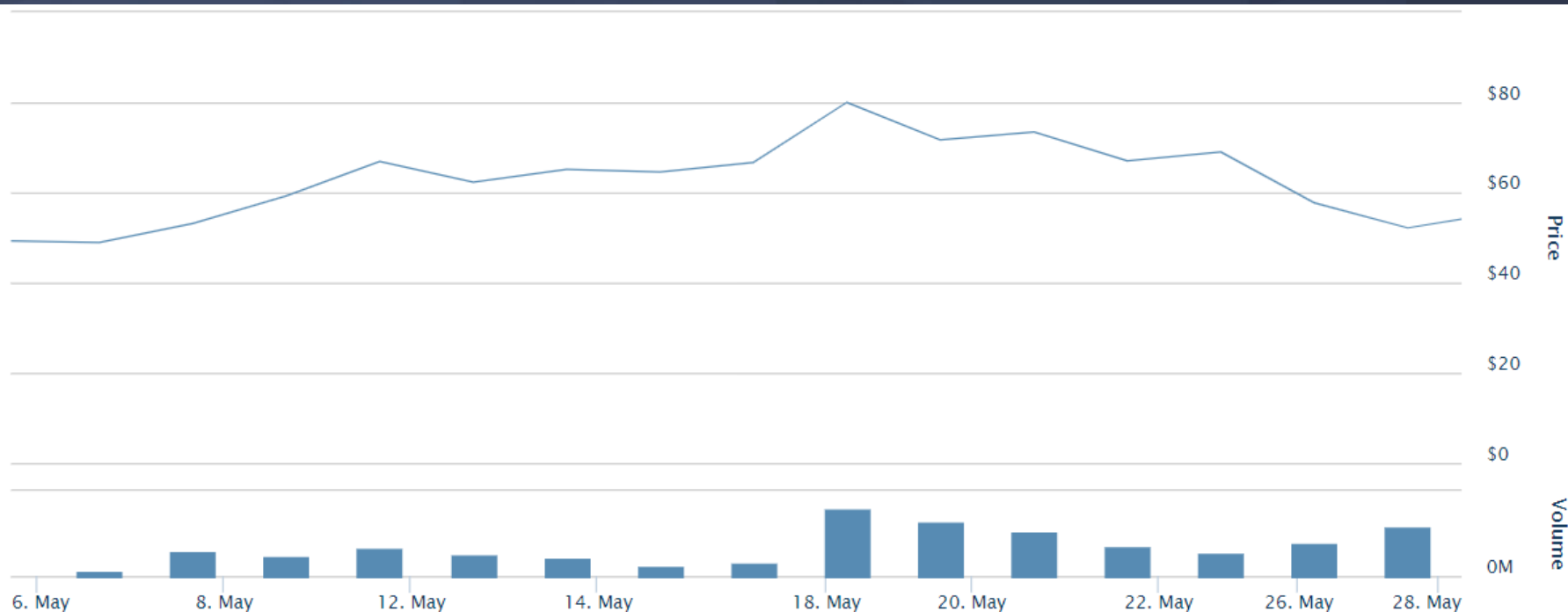


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May 7-May 27, 2020, Historical Data for Moderna, Inc. (NASDAQ: MRNA)



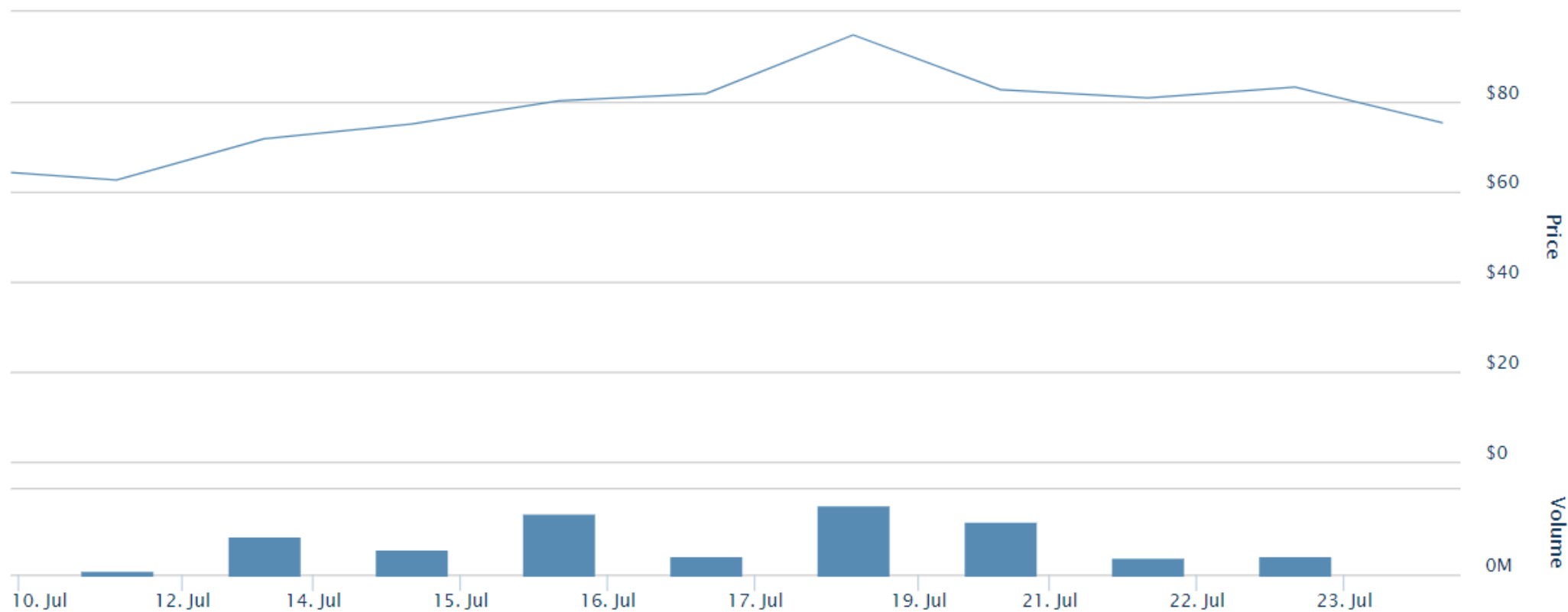
Date	Open	High	Low	Close	Volume	% Chg	\$ Chg	Trade Val	# Trades
2020-05-27	51.20	53.34	46.13	52.18	59.51m	-9.58%	-5.53	3,022,479,030.00	423,354
2020-05-26	66.40	66.59	57.05	57.71	40.33m	-16.36%	-11.29	2,475,840,760.00	360,926
2020-05-22	69.93	70.60	67.14	69.00	28.91m	2.91%	1.95	1,994,931,890.00	227,958
2020-05-21	73.05	73.16	65.31	67.05	35.32m	-8.74%	-6.42	2,385,991,030.00	304,662
2020-05-20	70.01	74.48	67.41	73.47	53.66m	2.51%	1.80	3,839,844,970.00	389,698
2020-05-19	78.07	79.75	70.32	71.67	64.93m	-10.41%	-8.33	4,853,354,060.00	547,748
2020-05-18	86.14	87.00	75.66	80.00	81.21m	19.96%	13.31	6,681,005,970.00	702,665
2020-05-15	63.79	67.67	63.01	66.69	16.34m	3.30%	2.13	1,073,680,270.00	116,766
2020-05-14	64.79	65.39	61.44	64.56	12.20m	-0.95%	-0.62	774,944,809.00	96,713
2020-05-13	63.80	66.97	60.29	65.18	22.13m	4.54%	2.83	1,427,442,820.00	159,251
2020-05-12	65.99	68.49	62.02	62.35	25.93m	-6.80%	-4.55	1,677,606,950.00	214,499
2020-05-11	59.60	67.67	59.14	66.90	34.85m	12.91%	7.65	2,255,030,290.00	257,257
2020-05-08	53.06	59.88	52.15	59.25	24.14m	11.39%	6.06	1,382,168,510.00	184,526
2020-05-07	55.78	55.99	51.06	53.19	30.94m	8.66%	4.24	1,657,212,390.00	217,836

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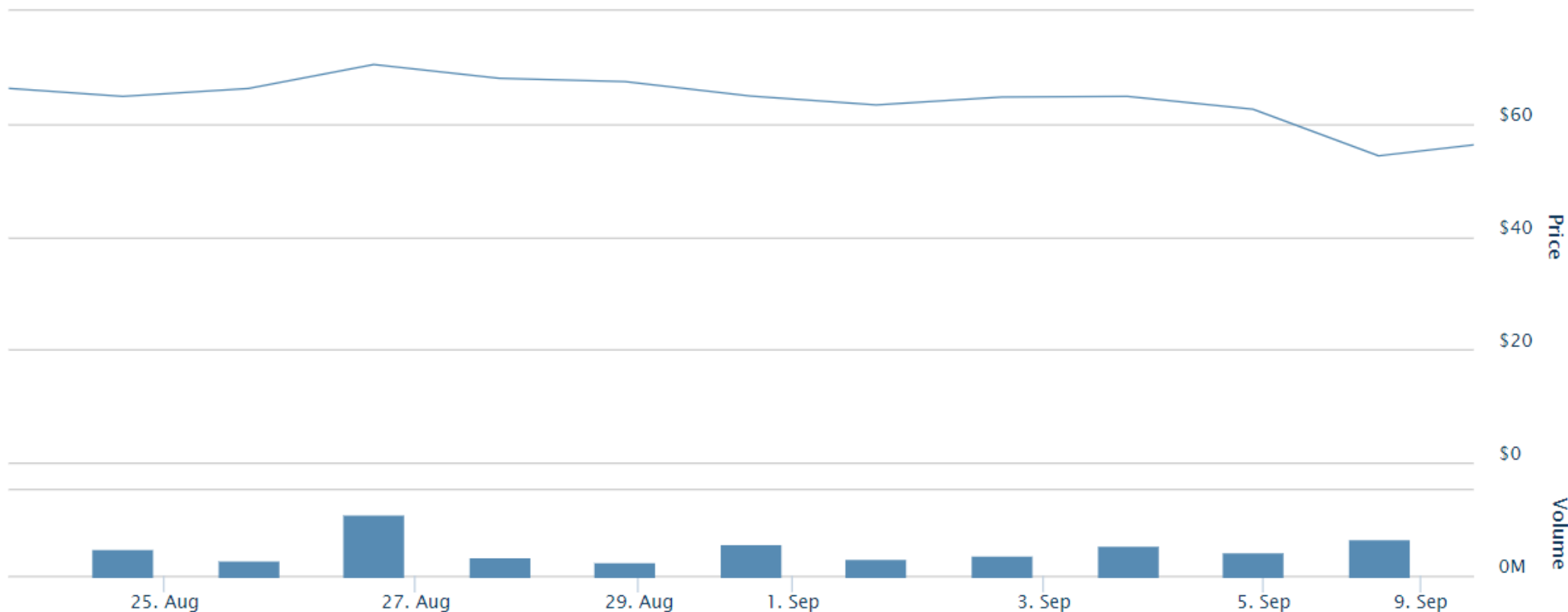


July 10-July 23, 2020, Historical Data for Moderna, Inc. (NASDAQ: MRNA)



Date	Open	High	Low	Close	Volume	% Chg	\$ Chg	Trade Val	# Trades
2020-07-23	82.05	82.68	72.20	75.33	29.29m	-9.49%	-7.895	2,279,546,620.00	280,298
2020-07-22	79.61	84.12	79.11	83.225	27.27m	2.93%	2.365	2,229,446,060.00	217,910
2020-07-21	80.91	82.43	79.07	80.86	26.19m	-2.20%	-1.82	2,115,266,980.00	232,983
2020-07-20	87.86	90.85	78.05	82.68	78.39m	-12.83%	-12.17	6,570,373,770.00	686,438
2020-07-17	83.35	95.21	82.61	94.85	103.51m	15.94%	13.04	9,441,572,480.00	717,456
2020-07-16	80.16	84.29	79.60	81.81	27.28m	1.98%	1.59	2,236,544,550.00	246,927
2020-07-15	87.65	88.37	78.01	80.22	90.77m	6.90%	5.18	7,490,582,770.00	795,582
2020-07-14	74.00	76.949	70.62	75.04	38.71m	4.54%	3.26	2,979,442,300.00	334,696
2020-07-13	63.89	77.75	63.80	71.78	56.62m	14.65%	9.17	4,086,098,230.00	436,373
2020-07-10	64.65	64.93	62.32	62.61	7.41m	-3.63%	-2.36	467,773,991.00	68,315

Aug. 24-Sept. 8, 2020, Historical Data for Moderna, Inc. (NASDAQ: MRNA)



Date	Open	High	Low	Close	Volume	% Chg	\$ Chg	Trade Val	# Trades
2020-09-08	57.75	58.60	54.21	54.34	17.71m	-13.20%	-8.26	990,692,994.00	176,745
2020-09-04	64.99	65.00	59.01	62.60	11.65m	-3.46%	-2.24	718,741,559.00	131,943
2020-09-03	65.65	69.35	64.30	64.84	14.31m	0.19%	0.12	952,662,298.00	142,191
2020-09-02	62.84	64.89	61.381	64.72	9.87m	2.21%	1.40	623,133,575.00	103,658
2020-09-01	63.54	64.50	62.50	63.32	8.20m	-2.42%	-1.57	519,887,160.00	94,411
2020-08-31	67.14	67.20	62.54	64.89	15.27m	-3.85%	-2.60	977,404,216.00	167,247
2020-08-28	68.04	68.95	67.15	67.49	6.38m	-0.79%	-0.54	432,455,042.00	74,029
2020-08-27	69.98	70.32	67.01	68.03	9.26m	-3.50%	-2.47	629,359,767.00	101,384
2020-08-26	67.62	71.64	66.03	70.50	28.77m	6.42%	4.25	1,994,963,870.00	241,138
2020-08-25	64.32	66.696	63.55	66.25	7.80m	2.11%	1.37	512,559,432.00	75,091
2020-08-24	67.15	67.85	62.88	64.88	13.14m	-2.36%	-1.57	853,448,216.00	143,534

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Eastman Kodak Company

(NYSE: KODK)

Congressional Testimony of Jacob Frenkel

Member, Chair of Government Investigations & Securities Enforcement Practice

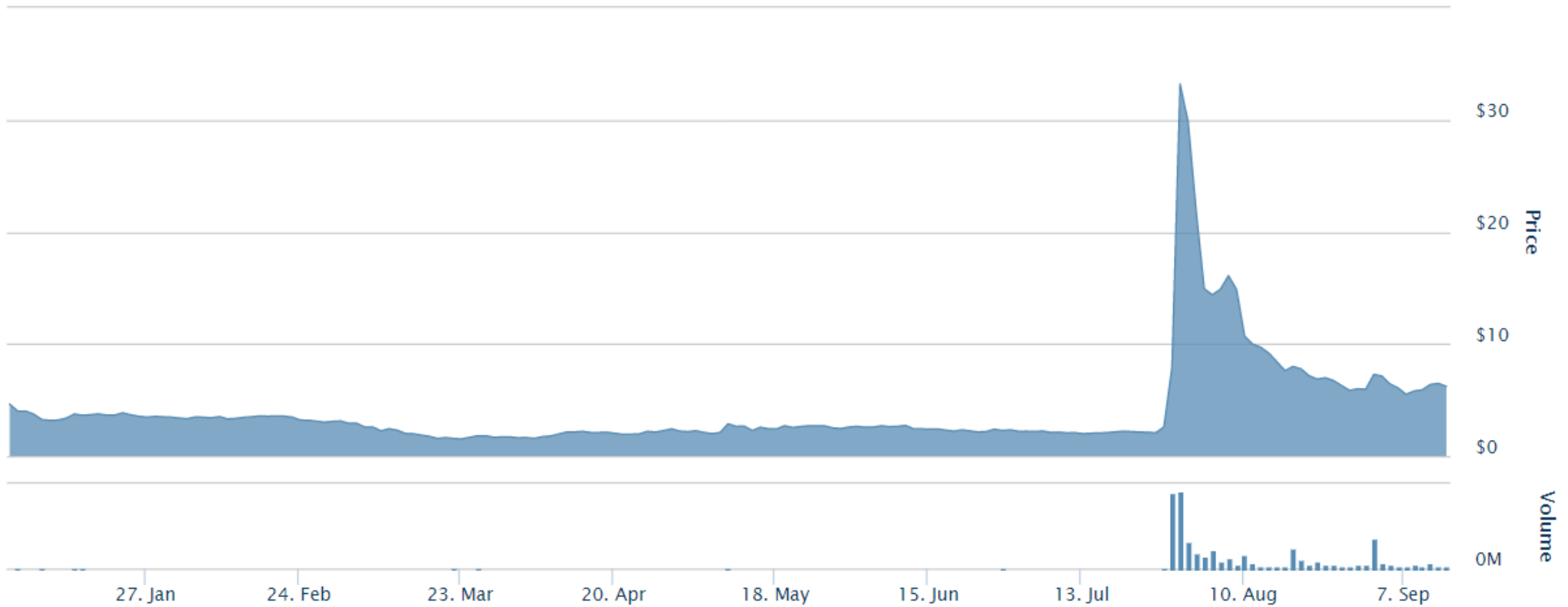
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2020 YTD Chart for Eastman Kodak Company (NYSE: KODK)

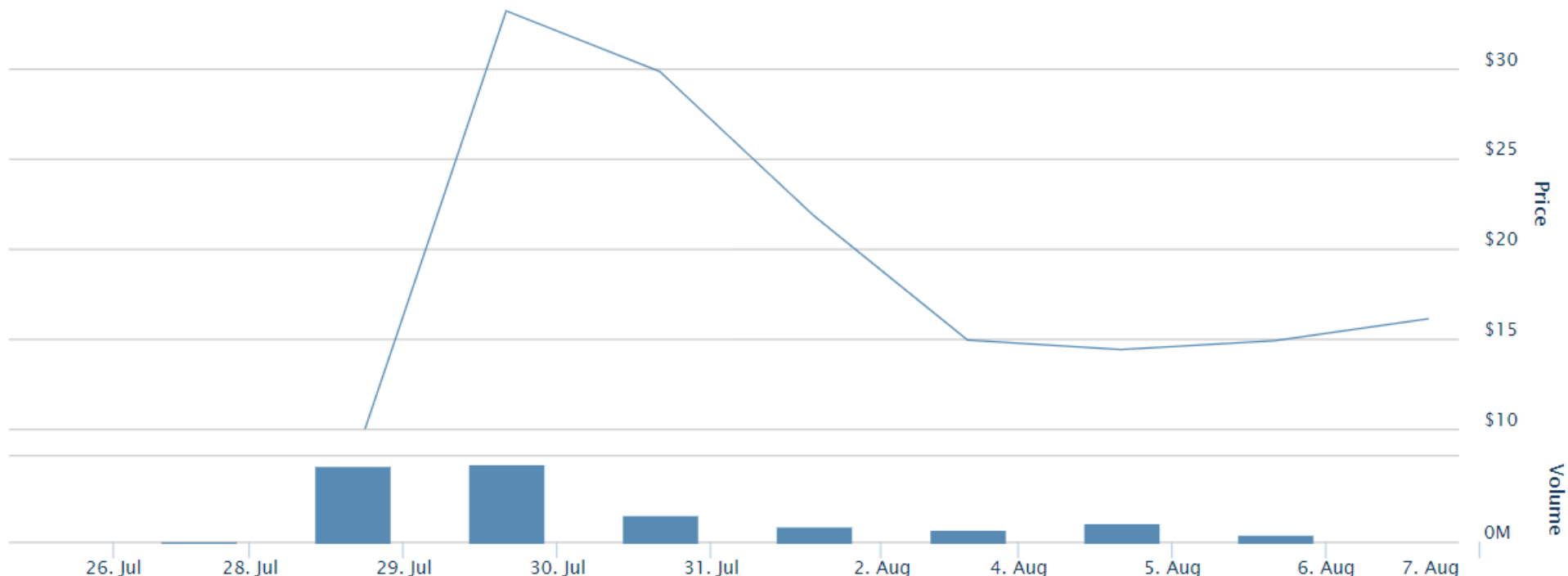


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July 27-Aug. 4, 2020, Historical Data for Eastman Kodak Company (NYSE: KODK)



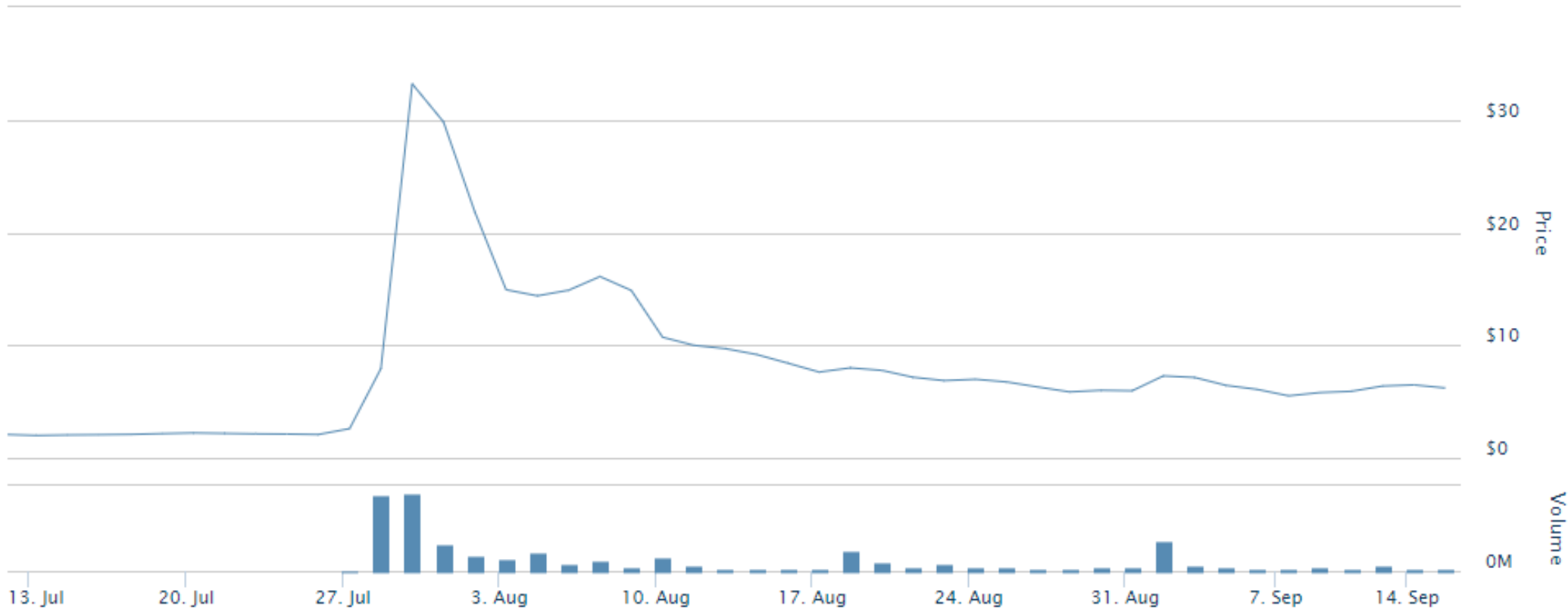
Date	Open	High	Low	Close	Volume	% Chg	\$ Chg	Trade Val	# Trades
2020-08-04	15.08	17.88	12.86	14.40	65.70m	-3.61%	-0.54	1,009,301,930.00	301,090
2020-08-03	21.13	21.16	14.74	14.94	46.70m	-31.63%	-6.91	812,287,676.00	266,124
2020-07-31	25.02	25.70	20.27	21.85	57.45m	-26.75%	-7.98	1,310,222,540.00	397,450
2020-07-30	43.58	44.44	27.50	29.83	98.35m	-10.15%	-3.37	3,568,137,650.00	717,903
2020-07-29	18.50	60.00	17.50	33.20	275.05m	318.14%	25.26	8,372,570,010.00	1,657,142
2020-07-28	9.63	11.80	6.00	7.94	273.63m	203.05%	5.32	2,521,959,630.00	1,344,124
2020-07-27	2.13	2.65	2.13	2.62	1.62m	24.76%	0.52	3,863,325.22	4,520

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July 17-Sept. 14, 2020, Historical Data for Eastman Kodak Company (NYSE: KODK)



(continued on following page)

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KODK July 17-Sept. 14, 2020, Historical Data, Continued

Date	Open	High	Low	Close	Volume	% Chg	\$ Chg	Trade Val	# Trades
2020-09-14	6.23	6.73	6.11	6.50	8.85m	1.56%	0.10	57,117,905.60	33,080
2020-09-11	6.26	6.60	6.02	6.40	20.41m	7.93%	0.47	128,902,924.00	60,364
2020-09-10	5.82	6.25	5.73	5.93	11.68m	1.89%	0.11	73,218,254.60	38,355
2020-09-09	5.6399	6.53	5.55	5.82	15.52m	5.24%	0.29	93,621,160.90	52,905
2020-09-08	5.90	5.93	5.51	5.53	9.64m	-9.34%	-0.57	54,780,646.00	36,975
2020-09-04	6.40	6.50	5.95	6.10	8.76m	-5.57%	-0.36	53,772,081.30	33,661
2020-09-03	7.00	7.08	6.41	6.46	13.21m	-9.78%	-0.70	88,302,149.90	47,390
2020-09-02	7.32	7.50	6.77	7.16	19.29m	-1.92%	-0.14	138,421,665.00	62,758
2020-09-01	9.48	9.87	7.21	7.30	106.24m	22.07%	1.32	874,037,926.00	407,380
2020-08-31	5.90	6.37	5.85	5.98	17.45m	-0.66%	-0.04	119,337,527.00	70,928
2020-08-28	5.86	6.40	5.66	6.02	13.99m	2.38%	0.14	84,404,044.50	51,467
2020-08-27	6.17	6.24	5.72	5.88	11.43m	-6.82%	-0.43	67,738,956.30	53,023
2020-08-26	6.75	6.75	6.085	6.31	11.77m	-6.66%	-0.45	75,128,664.00	50,427
2020-08-25	6.98	7.44	6.57	6.76	13.93m	-3.43%	-0.24	96,187,169.80	60,070
2020-08-24	6.83	7.50	6.70	7.00	13.82m	1.74%	0.12	97,060,618.80	52,814
2020-08-21	7.00	8.02	6.52	6.88	26.17m	-4.18%	-0.30	185,990,527.00	98,410
2020-08-20	7.78	8.00	7.09	7.18	13.59m	-7.83%	-0.61	101,141,406.00	50,927
2020-08-19	8.20	9.09	7.73	7.79	32.14m	-2.75%	-0.22	263,257,655.00	118,549
2020-08-18	7.34	13.69	6.68	8.01	72.55m	4.84%	0.37	647,004,355.00	257,240
2020-08-17	8.34	8.37	7.55	7.64	9.25m	-9.37%	-0.79	72,358,709.60	45,774
2020-08-14	9.07	9.18	8.22	8.43	10.49m	-8.37%	-0.77	89,415,207.20	51,096
2020-08-13	9.50	9.67	9.01	9.20	8.75m	-5.35%	-0.52	80,563,895.20	43,788
2020-08-12	10.40	10.47	9.54	9.72	9.50m	-2.90%	-0.29	93,656,257.10	55,165
2020-08-11	11.26	11.35	9.95	10.01	19.24m	-6.71%	-0.72	205,939,365.00	91,884
2020-08-10	8.90	11.60	8.50	10.73	47.30m	-27.89%	-4.15	486,229,938.00	221,027
2020-08-07	15.79	16.75	14.57	14.88	16.09m	-7.64%	-1.23	244,323,654.00	87,637
2020-08-06	15.11	17.50	14.80	16.11	39.43m	8.12%	1.21	644,870,227.00	203,270
2020-08-05	15.51	16.00	13.72	14.90	25.55m	3.47%	0.50	382,309,489.00	123,148
2020-08-04	15.08	17.88	12.86	14.40	65.70m	-3.61%	-0.54	1,009,301,930.00	301,090
2020-08-03	21.13	21.16	14.74	14.94	46.70m	-31.63%	-6.91	812,287,676.00	266,124
2020-07-31	25.02	25.70	20.27	21.85	57.45m	-26.75%	-7.98	1,310,222,540.00	397,450
2020-07-30	43.58	44.44	27.50	29.83	98.35m	-10.15%	-3.37	3,568,137,650.00	717,903
2020-07-29	18.50	60.00	17.50	33.20	275.05m	318.14%	25.26	8,372,570,010.00	1,657,142
2020-07-28	9.63	11.80	6.00	7.94	273.63m	203.05%	5.32	2,521,959,630.00	1,344,124
2020-07-27	2.13	2.65	2.13	2.62	1.62m	24.76%	0.52	3,863,325.22	4,520
2020-07-24	2.11	2.16	2.09	2.10	74.89k	-1.87%	-0.04	158,000.86	456
2020-07-23	2.14	2.20	2.09	2.14	80.84k	-0.93%	-0.02	174,063.14	430
2020-07-22	2.20	2.20	2.1403	2.16	52.42k	-1.82%	-0.04	113,882.35	372
2020-07-21	2.23	2.26	2.16	2.20	107.21k	-1.79%	-0.04	235,087.40	546
2020-07-20	2.26	2.28	2.21	2.24	117.17k	2.75%	0.06	263,730.19	571
2020-07-17	2.08	2.2699	2.08	2.18	214.99k	3.32%	0.07	471,416.27	1,240

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AstraZeneca

(LSE/STO/NYSE: AZN)

Congressional Testimony of Jacob Frenkel

Member, Chair of Government Investigations & Securities Enforcement Practice

Dickinson Wright PLLC • Sept. 17, 2020

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2020 YTD U.S. Chart for AstraZeneca (LSE/STO/NYSE: AZN)

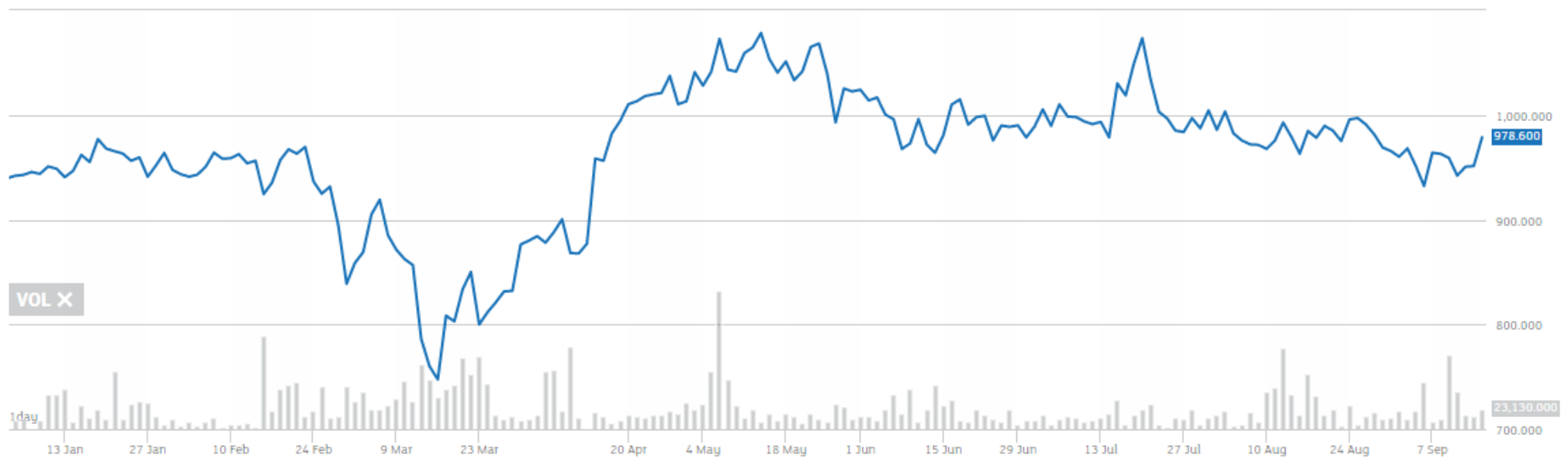


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2020 YTD London Stock Exchange Chart for AstraZeneca (LSE/STO/NYSE: AZN)



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