

approval while the role of the Sub-Advisers is substantially similar to that of individual portfolio managers, so that requiring shareholder approval of Sub-Advisory Agreements would impose unnecessary delays and expenses on the Subadvised Series.

Applicants believe that the requested relief from the Disclosure Requirements meets this standard because it will improve the Adviser's ability to negotiate fees paid to the Sub-Advisers that are more advantageous for the Subadvised Series.

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

**Brent J. Fields,**

Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-84894; File No. SR-DTC-2018-013]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Revise the Service Guide for the Canadian-Link Service

December 20, 2018.

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 December 19, 2018, The Depository Trust Company (“DTC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(4) thereunder.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change of DTC<sup>5</sup> consists of modifications to the text of

the Procedures,<sup>6</sup> specifically the service guide (“Guide”)<sup>7</sup> for the DTC Canadian-Link Service (“Canadian-Link Service”), relating to the determination of a conversion rate applied by DTC for the conversion of Canadian dollar (“CAD”) amounts into the equivalent U.S. dollar (“USD”) amounts.

### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

#### (A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The proposed rule change consists of modifications to the Guide<sup>8</sup> relating to the determination of a conversion rate applied by DTC for the conversion of CAD amounts into the equivalent USD amounts, which DTC uses in connection with the calculation of the Collateral Value<sup>9</sup> of Securities delivered, and CAD

<sup>6</sup> Pursuant to the Rules, the term “Procedures” means the Procedures, service guides, and regulations of DTC adopted pursuant to Rule 27, as amended from time to time. See Rule 1, Section 1, *supra* note 5. Pursuant to Rule 27, each Participant and DTC is bound by the Procedures and any amendment thereto in the same manner as it is bound by the Rules. See Rule 27 at 98, *supra* note 5.

<sup>7</sup> Available at [http://www.dtcc.com/~media/Files/Downloads/legal/service-guides/Canadian\\_Dollar\\_Settlement.pdf](http://www.dtcc.com/~media/Files/Downloads/legal/service-guides/Canadian_Dollar_Settlement.pdf).

<sup>8</sup> *Id.*

<sup>9</sup> The term “Collateral Value”, as used with respect to the Collateral of a Participant, means, on any Business Day, (i) with respect to the Actual Participants Fund Deposit of a Participant, the amount of such Actual Participants Fund Deposit, (ii) with respect to the Actual Preferred Stock Investment of a Participant, the amount of such Actual Preferred Stock Investment, (iii) with respect to the Net Additions of a Participant, an amount determined by applying to the Market Value of such Net Additions a percentage determined by the Corporation, in its sole discretion, and (iv) with respect to any settlement progress payments wired by a Participant to the account of the Corporation at the Federal Reserve Bank of New York in the manner specified in the Procedures, the amount of such settlement progress payments. Rule 1, Section 1 at 3, *supra* note 5. Net Additions in the definition of Collateral Value refers to the term “Net Addition Securities” as defined in Rule 1. The term “Net Addition Securities” (sometimes referred to as “Net Additions”) of a Participant on any Business Day means (i) Securities subject of Deliveries Versus Payment to the Participant, (ii) Securities credited

funds transfers processed through, the Canadian-Link Service, as described below.

### Background

In 2006, DTC established a “northbound” Canadian-Link Service that supports transactions settled in CAD.<sup>10</sup> Rule 30<sup>11</sup> describes the operation of the Canadian-Link Service, which permits DTC Participants using the Canadian Link Service (“Canadian-Link Participants”) to (A) settle valued Securities transactions with participants (“CDS Participants”) of The Canadian Depository for Securities Limited (“CDS”) and other Canadian-Link Participants in CAD and (B) transfer CAD to or receive CAD from CDS Participants and other Canadian-Link Participants without any corresponding delivery or receipt of securities.<sup>12</sup>

The Canadian-Link Service provides Participants with a single depository interface for CAD transactions. The link facilitates Participants' ability to maintain U.S. and Canadian Security positions in their DTC accounts for securities listed in both Canada and the United States (*i.e.*, dually listed). This eliminates the need for Participants to maintain separate positions in an eligible<sup>13</sup> Security in CDS for CAD settlements and in DTC for USD settlements. It also eliminates the need for Participants to reposition Securities inventory between DTC and CDS in preparation for corporate action events and/or transaction processing for dually listed issues.

Transactions between Canadian-Link Participants and CDS Participants are processed through an omnibus account

to the Account of the Participant (such as Deposits of Eligible Securities and Free Deliveries of Securities) and designated as Net Addition Securities by the Participant in the manner specified in the Procedures. Net Addition Securities shall cease to be such if (x) they become Pledged or Segregated Securities, (y) they are Delivered or Withdrawn by the Participant or (z) they are designated as Minimum Amount Securities by the Participant in the manner specified in the Procedures. Rule 1, Section 1 at 10, *supra* note 5.

<sup>10</sup> See Securities Exchange Act Release No. 52784 (November 16, 2005), 70 FR 70902 (November 23, 2005) (SR-DTC-2005-08).

<sup>11</sup> *Supra* note 5.

<sup>12</sup> The Canadian-Link Service also provides for Cross-Border USD Securities Transactions between Participants and CDS Participants. See Rule 30, Section 1(a)(2), *supra* note 5. See also Securities Exchange Act Release No. 55239 (February 5, 2007), 72 FR 6798 (February 13, 2007).

<sup>13</sup> DTC may determine the Securities that are eligible for the Canadian-Link Service. Some Securities may be eligible for all purposes of the Canadian-Link Service and some Securities may be eligible only for limited purposes (*e.g.*, clearance and settlement through the facilities of CDS but only custody and asset servicing through the facilities of DTC). See Rule 30, Section 4, *supra* note 5.

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

<sup>2</sup> 17 CFR 240.19b-4.

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

<sup>4</sup> 17 CFR 240.19b-4(f)(4).

<sup>5</sup> Capitalized terms not defined herein are defined in the Rules, By-Laws and Organization Certificate of DTC (“Rules”), available at [www.dtcc.com/~media/Files/Downloads/legal/rules/dtc\\_rules.pdf](http://www.dtcc.com/~media/Files/Downloads/legal/rules/dtc_rules.pdf) and the Guide.

maintained by DTC at CDS (“DTC Omnibus Account”) in accordance with the rules and procedures of CDS. Canadian-Link Participants are able (i) to deliver securities to or receive securities from CDS Participants against payment in CAD and (ii) to transfer funds to or receive funds from CDS Participants in CAD without any corresponding delivery or receipt of Securities. Transactions between Canadian-Link Participants and other Canadian-Link Participants are processed through accounts at DTC in accordance with the Rules.

For both transactions (i) between Canadian-Link Participants and CDS Participants processed through the DTC Omnibus Account and (ii) between Canadian-Link Participants and other Canadian-Link Participants processed through accounts at DTC, there is a single end-of-day CAD money settlement between DTC and its Canadian-Link Participants (“Canadian-Link Money Settlement”). For the transactions between Canadian-Link Participants and CDS Participants processed through the DTC Omnibus Account, there is a separate end-of-day CAD money settlement between CDS and DTC.

As with all valued transactions processed at DTC, DTC maintains risk controls with respect to transactions processed by Canadian-Link Participants, including the Net Debit Cap and Collateral Monitor.<sup>14</sup> With respect to Collateral Monitor, each Canadian-Link Participant has a single Collateral Monitor with respect to transactions processed for such Participant through the Canadian-Link Service and other transactions processed by DTC for such Participant.

In connection with CAD transactions, DTC faces the risk of USD/CAD exchange rate movements that may affect the Collateral Value relating to transactions and Securities processed through the Collateral Monitor. Specifically, CDS Participants’ net settlement debits are expressed in CAD and DTC Collateral is expressed in USD, which presents the risk of adverse movement in the USD/CAD exchange rate which may impact the value of the Collateral Monitor.<sup>15</sup> To address this

<sup>14</sup> The term “Collateral Monitor” of a Participant, as used with respect to its obligations to the Corporation, means, on any Business Day, the record maintained by the Corporation for the Participant which records, in the manner specified in Procedures, the algebraic sum of (i) the Net Credit or Debit Balance of the Participant and (ii) the aggregate Collateral Value of the Collateral of the Participant. Rule 1, Section 1 at 3, *supra* note 5.

<sup>15</sup> For purposes of the Canadian-Link Service, the Collateral Monitor of a Canadian-Link Participant is

exchange rate risk, DTC currently uses a haircut approach applied to CAD net debits (“Haircut Approach”).

The Haircut Approach uses a 3 percent fixed-rate factor. DTC converts CAD amounts into the equivalent USD amounts using a conversion rate (“Collateral Monitor Conversion Rate”) that is a published rate for exchanging CAD to USD on the prior Business Day plus (in the case of CAD debits) or minus (in the case of CAD credits) the 3 percent fixed-rate factor.<sup>16</sup> The 3 percent fixed-rate factor is based on one-day, two-day and five-day exchange rate fluctuations over the ten years prior to implementation of the Collateral Monitor Conversion Rate.<sup>17</sup> At the time, DTC determined that the 3 percent fixed-rate factor adequately accounted for over 99 percent of exchange rate fluctuations during such period.<sup>18</sup>

The Guide provides that DTC may from time to time, if necessary, change the 3 percent fixed-rate factor (“Factor”) used to calculate the Collateral Monitor Conversion Rate to appropriately account for exchange rate fluctuations.<sup>19</sup> DTC has recently analyzed the Haircut Approach and has determined that it is necessary to amend the Guide with respect to text describing the Factor and the Collateral Monitor Conversion Rate.

#### Proposed Rule Change

While the Guide states that DTC may change the Factor, if necessary, to account for exchange rate fluctuations, it also refers to specific criteria, as described above, that were used to determine the 3 percent fixed-rate Factor at the time the Canadian-Link Service was implemented.<sup>20</sup> While DTC

adjusted as follows: (1) CAD net credits from transactions processed for such Participant through the Canadian-Link Service are converted into USD equivalents and added to USD net credits from other transactions processed by DTC for such Participant; (2) CAD net debits from transactions processed for such Participant through the Canadian-Link Service are converted into USD equivalents and added to USD net debits from other transactions processed by DTC for such Participant; (3) The Collateral Value of Securities delivered by such Participant to CDS Participants through the DTC Omnibus Account and the Collateral Value of Securities delivered by such Participant to other Canadian-Link Participants through accounts at DTC are converted into USD equivalents and deducted from the Collateral Value of the Collateral of such Participant; and (4) Collateral Value in USD is given for Securities received by such Participant from other Canadian-Link Participants but no Collateral Value is given for Securities received by such Participant from CDS Participants unless and until such Securities are credited to an account of such Participant at DTC. See Rule 30, Section 9, *supra* note 5.

<sup>16</sup> See Guide at 6, *supra* note 7.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

has not changed the Factor since its implementation, the criteria originally used to determine the Factor may not continue to appropriately account for the risk of exchange rate fluctuations and their impact on the Collateral Monitor when changes to market conditions and risk management practices over time are taken into account. Therefore, DTC proposes to amend the Guide to remove specific references to (i) the Factor being established at 3 percent and (ii) references to time intervals used to calculate the Factor at the time the Canadian-Link service was established.

In addition, DTC recently adopted its Clearing Agency Model Risk Management Framework (“Framework”), which is designed to assist DTC in identifying, measuring, monitoring, and managing the risks associated with the development, implementation, use and validation of quantitative models.<sup>21</sup> In this regard, all models used by DTC, including that used to derive any change to the Factor used in the calculation of the Collateral Monitor Conversion Rate, must be developed, implemented, used and validated in accordance with the Framework. Therefore, DTC also proposes to amend the Guide to state that the Factor would be calculated in accordance with a methodology established by DTC, from time to time, in accordance with the Clearing Agency Model Risk Management Framework of DTC, that appropriately accounts for exchange rate fluctuations.

DTC completed the Factor model validation process according to the Framework and would calibrate the Factor no less than semi-annually as follows: Four-day exchange rate returns would be calculated for a ten-year lookback period, plus a one-year stress period<sup>22</sup> which would be determined by calculating the evenly weighted volatility of the four-day exchange rate returns across rolling twelve-month periods. The twelve-month period with the highest resulting volatility would be selected as the one-year stress period. In addition, four-day exchange rate returns would be calculated for a ten-year lookback period. The factor would then be derived by estimating the 0.5th percentile from the combined sample of ten-year and one-year stress period returns. The factor would then be rounded up to a whole percentage.

<sup>21</sup> See Securities Exchange Act Release No. 81485 (August 25, 2017), 82 FR 41433 (August 31, 2017).

<sup>22</sup> In a case of the one-year stress period overlapping the ten-year lookback period, the data used for calibration would be the ten-year period plus the non-overlapping days in the stress period.

In this regard, the Guide currently states with respect to the Factor:

"For purposes of adjustments in the collateral monitor, DTC will convert Canadian dollar amounts into the equivalent U.S. dollar amounts using a conversion rate (Collateral Monitor Conversion Rate) that is a published rate for exchanging Canadian dollars to U.S. dollars on the prior business day plus (in the case of Canadian dollar debits) or minus (in the case of Canadian dollar credits) a factor of 3%. The 3% factor is based on one day, two day and five day exchange rate fluctuations over the past ten years. Such 3% factor adequately accounts for over 99% of exchange rate fluctuations during such period. DTC may from time to time if necessary change the factor used to calculate the Collateral Monitor Conversion Rate to appropriately account for exchange rate fluctuations."<sup>23</sup>

Pursuant to the authority currently set forth in the Guide for DTC to, from time to time if necessary, change the factor used to calculate the Collateral Monitor Conversion Rate to appropriately account for exchange rate fluctuations,<sup>24</sup> DTC would amend the Guide text to read:

"For purposes of adjustments in the collateral monitor, on a given Business Day, DTC converts Canadian dollar amounts into the equivalent U.S. dollar amounts using a conversion rate (Collateral Monitor Conversion Rate) that is a published rate for exchanging Canadian dollars to U.S. dollars on the prior Business Day plus (in the case of Canadian dollar debits) or minus (in the case of Canadian dollar credits) a factor ("Factor") of no less than 3%, calculated in accordance with a methodology established by DTC, from time to time, in accordance with the Clearing Agency Model Risk Management Framework of DTC, that appropriately accounts for exchange rate fluctuations. DTC will calibrate the Factor no less than semi-annually as follows: Four-day exchange rate returns will be calculated for a ten-year lookback period, plus a one-year stress period (Note: In a case where the one-year stress period overlaps with the ten-year lookback period, the data used for calibration would be the ten-year period plus the non-overlapping days in the stress period.) which will be determined by calculating the evenly weighted volatility of the four-day exchange rate returns across rolling twelve-month periods. The twelve-month period with the highest resulting volatility will be

selected as the one-year stress period. In addition, four-day exchange rate returns will be calculated for a ten-year lookback period. The factor will then be derived by estimating the 0.5th percentile from the combined sample of ten-year and one-year stress period returns. The factor will then be rounded up to a whole percentage. Except for extreme market conditions, the methodology and any changes in the Factor will be distributed by Important Notice at least 5 Business Days before becoming effective."

#### Effective Date

The proposed rule change would become effective upon filing with the Commission.

#### 2. Statutory Basis

Section 17A(b)(3)(F) of the Act requires that the rules of the clearing agency be designed, *inter alia*, to promote the prompt and accurate clearance and settlement of securities transactions.<sup>25</sup> DTC believes that the proposed rule change is consistent with this provision of the Act because, by revising the Guide to update the description of how changes to the Factor would be made in light of DTC's adoption of the Framework, the proposed rule change would facilitate Participants' ability to understand the calculation of the Collateral Monitor Conversion Rate and its impact on risk controls relating to their transaction activity. Therefore, the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions consistent with Section 17A(b)(3)(F) of the Act.<sup>26</sup>

#### (B) Clearing Agency's Statement on Burden on Competition

DTC does not believe that the proposed rule change would have any impact on competition. The proposed rule change would merely update the Guide with respect to existing Procedures relating to DTC's discretion to change the Factor as necessary to account for exchange rate fluctuations.<sup>27</sup> The proposed change would reflect that any change in the Factor would be made pursuant to a methodology established in accordance with the Framework, which is a Procedure previously approved by the Commission.<sup>28</sup> Therefore, the proposed rule change would not affect the rights or obligations

of Participants, and as such, would not impact competition.

#### (C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has not received or solicited any written comments relating to this proposal. DTC will notify the Commission of any written comments received by DTC.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>29</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>30</sup> At any time within 60 days of the filing of the 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.

#### 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-DTC-2018-013 on the subject line.

##### *Paper Comments*

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

All submissions should refer to File Number SR-DTC-2018-013. 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

<sup>25</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>26</sup> *Id.*

<sup>27</sup> See Guide at 6, *supra* note 7.

<sup>28</sup> *Supra* note 21.

<sup>29</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>30</sup> 17 CFR 240.19b-4(f).

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 DTC and on DTCC's website (<http://dtcc.com/legal/sec-rule-filings.aspx>). 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-DTC-2018-013 and should be submitted on or before January 18, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>31</sup>

**Brent J. Fields,**

Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-84891; File No. 10-233]

### In the Matter of the Application of MIAX EMERALD, LLC for Registration as a National Securities Exchange; Findings, Opinion, and Order of the Commission

December 20, 2018.

#### I. Introduction

On August 16, 2018, MIAX EMERALD, LLC ("MIAX EMERALD" or "Exchange") submitted to the Securities and Exchange Commission ("Commission") an application for Registration as a National Securities Exchange ("Form 1 Application") under Section 6 of the Securities Exchange Act of 1934 ("Act"), seeking registration as a national securities exchange under Section 6 of the Act.<sup>1</sup> Notice of the Form 1 Application was published for comment in the **Federal Register** on October 3, 2018.<sup>2</sup> The Commission received no comments.

<sup>31</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78f.

<sup>2</sup> See Securities Exchange Act Release No. 84313 (September 28, 2018), 83 FR 49965 ("Notice").

#### II. Statutory Standards

Under Sections 6(b) and 19(a) of the Act,<sup>3</sup> the Commission shall by order grant an application for registration as a national securities exchange if the Commission finds, among other things, that the proposed exchange is so organized and has the capacity to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the exchange.

As discussed in greater detail below, the Commission finds that MIAX EMERALD's application for exchange registration meets the requirements of the Act and the rules and regulations thereunder. Further, the Commission finds that the proposed rules of MIAX EMERALD are consistent with Section 6 of the Act in that, among other things, they assure a fair representation of the Exchange's members in the selection of its directors and administration of its affairs and provide that one or more directors will be representative of issuers and investors and not be associated with a member of the exchange, or with a broker or dealer;<sup>4</sup> and that they are designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest and are not designed to permit unfair discrimination between customers, issuers, or broker-dealers.<sup>5</sup> Finally, the Commission finds that MIAX EMERALD's proposed rules do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.<sup>6</sup>

#### III. Discussion

##### A. Governance of MIAX EMERALD

###### 1. MIAX EMERALD Board of Directors

The board of directors of MIAX EMERALD ("Exchange Board" or "MIAX EMERALD Board") will be its governing body and will possess all of the powers necessary for the

<sup>3</sup> 15 U.S.C. 78f(b) and 15 U.S.C. 78s(a), respectively.

<sup>4</sup> See 15 U.S.C. 78f(b)(3).

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

<sup>6</sup> See 15 U.S.C. 78f(b)(8).

management of its business and affairs, including governance of MIAX EMERALD as a self-regulatory organization ("SRO").<sup>7</sup>

Under the By-Laws of MIAX EMERALD ("MIAX EMERALD By-Laws"):<sup>8</sup>

- The Exchange Board will be composed of not less than ten directors;<sup>9</sup>

- One director will be the Chief Executive Officer of MIAX EMERALD;<sup>10</sup>

- The number of Non-Industry Directors,<sup>11</sup> including at least one Independent Director,<sup>12</sup> will equal or exceed the sum of the number of Industry Directors<sup>13</sup> and Member Representative Directors;<sup>14</sup> and

<sup>7</sup> See MIAX EMERALD By-Laws, Section 2.1. See also Limited Liability Company Agreement of MIAX EMERALD, Section 8(b).

<sup>8</sup> The MIAX EMERALD By-Laws are included in the Amended and Restated Limited Liability Company Agreement of MIAX EMERALD ("MIAX EMERALD LLC Agreement").

<sup>9</sup> See MIAX EMERALD By-Laws, Article II, Section 2.2(a).

<sup>10</sup> See MIAX EMERALD By-Laws, Article II, Section 2.2(b).

<sup>11</sup> "Non-Industry Director" means a Director who is an Independent Director or any other individual who would not be an Industry Director. See MIAX EMERALD By-Laws, Article I(aa).

<sup>12</sup> "Independent Director" means a "Director who has no material relationship with [MIAX EMERALD] or any affiliate of [MIAX EMERALD], or any [MIAX EMERALD member] or any affiliate of any such [MIAX EMERALD member]; provided, however, that an individual who otherwise qualifies as an Independent Director shall not be disqualified from serving in such capacity solely because such Director is a Director of [MIAX EMERALD] or [Miami Holdings]." See MIAX EMERALD By-Laws, Article I(p).

<sup>13</sup> An "Industry Director" is, among other things, a Director that is or has served within the prior three years as an officer, director, employee, or owner of a broker or dealer, as well as any Director who has, or has had, a consulting or employment relationship with MIAX EMERALD or any affiliate of MIAX EMERALD within the prior three years. See MIAX EMERALD By-Laws, Article I(r). This definition is consistent with what the Commission has approved for other exchanges. See Securities Exchange Act Release Nos. 79543 (December 13, 2016), 81 FR 92901 (December 20, 2016) (File No. 10-227) (order granting registration of MIAX PEARL, LLC ("MIAX PEARL Order")); 68341 (December 3, 2012), 77 FR 73065 (December 7, 2012) (File No. 10-207) (order granting the registration of Miami International Securities Exchange, LLC ("MIAX Exchange")) ("MIAX Order"); 58375 (August 18, 2008), 73 FR 49494 (August 21, 2008) (File No. 10-182) (order granting the registration of BATS Exchange, Inc.) ("BATS Order"); and 66871 (April 27, 2012), 77 FR 26323 (May 3, 2012) (File No. 10-206) (order granting the registration of BOX Options Exchange LLC ("BOX")) ("BOX Order").

<sup>14</sup> See MIAX EMERALD By-Laws, Article II, Section 2.2 (b)(i). "Member Representative Director" means a Director who has been appointed by Miami International Holdings, Inc. as an initial Director pursuant to Section 2.5 of the MIAX EMERALD By-Laws to serve until the first annual meeting or who "has been elected by the Miami International Holdings, Inc. after having been

Continued