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Page 1 of \* 20

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
Form 19b-4

File No. \* SR 2021 - \* 36

Amendment No. (req. for Amendments \*)

Filing by MIAX Emerald, LLC

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	Rule <input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4) <input checked="" type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(5) <input type="checkbox"/> 19b-4(f)(3) <input type="checkbox"/> 19b-4(f)(6)		
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Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010 Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 Section 3C(b)(2) * <input type="checkbox"/>
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Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

Proposal to amend the MIAX Emerald Fee Schedule to make non-substantive, clarifying changes.

**Contact Information**

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name *	Katherine	Last Name *	Comly
Title *	Legal Associate		
E-mail *	kcomly@miami-holdings.com		
Telephone *	(609) 613-1396	Fax	

**Signature**

Pursuant to the requirements of the Securities Exchange of 1934, MIAX Emerald, LLC has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date	10/22/2021	(Title *)	
By	Michael Slade	AVP, Associate Counsel	

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

*Michael Slade*    Date: 2021.10.22  
10:57:15 -04'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

**Form 19b-4 Information \***

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SR-EMERALD-2021-36- 19b4.docx

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

Add Remove View

SR-EMERALD-2021-36 Exhibit 1.docx

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

**Exhibit 3 - Form, Report, or Questionnaire**

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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SR-EMERALD-2021-36 Exhibit 5.docx

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

**Partial Amendment**

Add Remove View

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

**1. Text of the Proposed Rule Change**

(a) MIAX Emerald, LLC (“Emerald” or “Exchange”), pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> proposes to amend the MIAX Emerald Fee Schedule (“Fee Schedule”) to make non-substantive, clarifying changes.

Notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1, and a copy of the applicable section of the proposed Fee Schedule is attached hereto as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

**2. Procedures of the Self-Regulatory Organization**

The proposed rule changes were approved by the Chief Executive Officer of the Exchange or his designee pursuant to authority delegated by the MIAX Emerald Board of Directors on January 28, 2021. Exchange staff will advise the Board of Directors of any action taken pursuant to delegated authority. No other action by the Exchange is necessary for the filing of the proposed rule changes.

Questions and comments on the proposed rule changes may be directed to Katherine Comly, Legal Associate, at (609) 613-1396.

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

a. Purpose

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

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

The Exchange proposes to amend the Fee Schedule to make non-substantive, clarifying changes to Sections 3)b) and 5)d)ii) for the monthly Trading Permit fees for Market Makers<sup>3</sup> and the monthly MIAX Emerald Express Interface (“MEI”)<sup>4</sup> Port fees for Market Makers. The Exchange does not propose to amend the amount of Trading Permit fees or MEI Port fees in this filing. The Exchange also does not propose to amend the calculation methodology for Trading Permit fees or MEI Port fees in this filing.

#### Monthly Market Maker Trading Permit Fee Clarifying Changes

First, the Exchange proposes to amend Section 3)b) of the Fee Schedule to amend the text below the table for the monthly Trading Permit fees applicable to Market Makers. Specifically, the Exchange proposes to add the following two clarifying sentences to begin the explanatory paragraph following the table for the monthly Trading Permit fees applicable to Market Makers:

For the calculation of the monthly Market Maker Trading Permits, the applicable fee rate is the lesser of either the per class basis or percentage of total national average daily volume measurement. The amount of monthly Market Maker Trading Permit Fee will be based upon the number of classes in which the Market Maker was assigned to quote on any given day within the calendar month, or upon the class volume percentages set forth in the above table.

The Exchange also proposes to remove the following sentence, which is currently the first sentence of the explanatory paragraph below the table for the monthly Trading Permit fees applicable to Market Makers:

For the calculation of the monthly Market Maker Trading Permit Fees, the number of classes is defined as the greatest number of classes the Market Maker was assigned to quote in on any given day within the calendar month and the class volume percentage is based on the total national average daily volume in classes listed on MIAX Emerald in the prior calendar quarter.

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<sup>3</sup> The term “Market Makers” refers to “Lead Market Makers,” “Primary Lead Market Makers,” and “Registered Market Makers” collectively. See Exchange Rule 100.

<sup>4</sup> MIAX Emerald Express Interface (“MEI”) is a connection to the MIAX Emerald System that enables Market Makers to submit simple and complex electronic quotes to MIAX Emerald. See the Definitions Section of the Fee Schedule.

In place of the deleted sentence described above, the Exchange proposes to insert the following two sentences, which will become sentences three and four of the revised explanatory paragraph:

The Exchange will assess MIAX Emerald Market Makers the monthly Market Maker Trading Permit Fee based on the greatest number of classes listed on MIAX Emerald that the MIAX Emerald Market Maker was assigned to quote in on any given day within a calendar month. The class volume percentage is based on the total national average daily volume in classes listed on MIAX Emerald in the prior calendar quarter.

The Exchange notes that these two sentences are a combination of sentences already included in the explanatory paragraph. In connection with all of the changes described above, the Exchange proposes to delete the following sentence:

The Exchange will assess MIAX Emerald Market Makers the monthly Market Maker Trading Permit Fee based on the greatest number of classes listed on MIAX Emerald that the MIAX Emerald Market Maker was assigned to quote in on any given day within a calendar month and the applicable fee rate that is the lesser of either the per class basis or percentage of total national average daily volume measurement.

The Exchange notes that all of these changes, when taken together, do not alter the calculation methodology for how the Exchange currently calculates monthly Trading Permit fees for Market Makers. These changes are being made solely to clarify the explanatory paragraph below the table of fees for monthly Trading Permit fees for Market Makers. The Exchange believes that these revised sentences summarize that the monthly Market Maker Trading Permit fee rate is the lesser of the per class basis or the percentage of total national average daily volume measure and better clarifies how the MIAX Market Maker Trading Permit fee will continue to be calculated and applied each month. The Exchange does not propose to amend the amount or calculation of the monthly Trading Permit fee for Market Makers.

MEI Port Fee Clarifying Changes

Next, the Exchange proposes to amend Section 5)d)ii) of the Fee Schedule to make non-substantive, clarifying changes to the explanatory paragraph below the table of MEI Port fees applicable to Market Makers. The Exchange proposes to move the current first sentence of the explanatory paragraph below the table of MEI Port fees applicable to Market Makers in Section 5)d)ii) to now be the final sentence. In its place, the Exchange proposes to add the following sentence: “The applicable fee rate is the lesser of either the per class basis or percentage of total national average daily volume measurement.” In connection with this change, the Exchange proposes to amend the sentence that will now follow the new first sentence of the explanatory paragraph. In particular, the Exchange proposes to add “MIAX Emerald Express Interface” to the second sentence of the explanatory paragraph to contain the full term, “MIAX Express Interface (‘MEI’)” Port. The final sentence of the explanatory paragraph will now read as follows: “MIAX Emerald will assess monthly MEI Port Fees on Market Makers in each month the Member has been credentialed to use the MEI Port in the production environment and has been assigned to quote in at least one class.”

Further, following the above changes, the Exchange proposes to amend the second sentence of the explanatory paragraph to remove the word “and” that connects the two clauses describing how the Exchange calculates the monthly MEI Port fee for Market Makers. In place of the word “and,” the Exchange proposes to clarify that the amount of the monthly MEI Port fee will be based upon the number of classes in which the Market Maker was assigned to quote on any given day within the calendar month, or upon the class volume percentages set forth in the MEI Port fee table.

The Exchange further proposes to remove the fifth sentence of the explanatory paragraph below the table of MEI Port fees in Section 5)d)ii) and move it up in the paragraph, immediately

following the second sentence. With this change, the third sentence of the explanatory paragraph will be as follows: “The Exchange will assess MIAX Emerald Market Makers the monthly MEI Port Fee based on the greatest number of classes listed on MIAX Emerald that the MIAX Emerald Market Maker was assigned to quote in on any given day within a calendar month.” This phrase is currently contained in the fifth sentence of the explanatory paragraph and the Exchange now proposes to make the phrase its own sentence and move it earlier in the paragraph. The Exchange believes that these revised sentences summarize that the monthly MEI Port fee rate is the lesser of either the per class basis or percentage of total national average daily volume measurement and better clarifies how the monthly MEI Port fee for Market Makers will continue to be calculated and applied. The Exchange does not propose to amend the amount or calculation of the monthly MEI Port fee for Market Makers.

b. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act<sup>5</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>6</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, and dealers.

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

<sup>6</sup> 15 U.S.C. 78f(b)(4) and (5).

The Exchange believes the proposed changes are consistent with Section 6(b)(4) of the Act in that they are reasonable, equitable, and not unfairly discriminatory because they are non-substantive, clarifying changes regarding the Exchange's monthly Trading Permit and MEI Port fees applicable to Market Makers and will reduce the risk of confusion to market participants. The proposed changes promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest by clarifying how the MIAX Emerald Market Maker Trading Permit fee and the MEI Port fee will be calculated and applied each month. The Exchange believes that these proposed changes will provide greater clarity to Members and the public regarding the Exchange's Fee Schedule and that it is in the public interest for the Fee Schedule to be accurate and concise so as to eliminate the potential for confusion.

**4. Self-Regulatory Organization's Statement on Burden on Competition**

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes the proposed change will not impose any burden on intra-market competition as the proposed rule change will have no impact on competition as it is not designed to address any competitive issue but rather is designed to remedy minor non-substantive, clarifying issues and provide added clarity to the Fee Schedule. In addition, the Exchange does not believe the proposal will impose any burden on inter-market competition as the proposal does not address any competitive issues and is intended to protect investors by providing further transparency regarding the Exchange's Fee Schedule.

**5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others**

No written comments were either solicited or received.



6. **Extension of Time Period for Commission Action**

Not applicable.

7. **Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

Pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>7</sup> and Rule 19b-4(f)(2) thereunder<sup>8</sup> the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

8. **Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

Not applicable.

9. **Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act**

Not applicable.

10. **Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act**

Not applicable.

11. **Exhibits**

1. Notice of proposed rule for publication in the Federal Register.

5. Copy of the applicable section of the Fee Schedule.

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<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>8</sup> 17 CFR 240.19b-4.

**EXHIBIT 1**SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-EMERALD-2021-36)

October \_\_, 2021

Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a  
Proposed Rule Change by MIAX Emerald, LLC to Amend Its Fee Schedule

Pursuant to the provisions of 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 October 22, 2021, MIAX Emerald, LLC (“MIAX Emerald” or “Exchange”), filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is filing a proposal to amend the MIAX Emerald Fee Schedule (the “Fee Schedule”) to make non-substantive, clarifying changes.

The text of the proposed rule change is available on the Exchange’s website at <http://www.miaxoptions.com/rule-filings/emerald>, at MIAX’s principal office, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified

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

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

in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to amend the Fee Schedule to make non-substantive, clarifying changes to Sections 3)b) and 5)d)ii) for the monthly Trading Permit fees for Market Makers<sup>3</sup> and the monthly MIAX Emerald Express Interface (“MEI”)<sup>4</sup> Port fees for Market Makers. The Exchange does not propose to amend the amount of Trading Permit fees or MEI Port fees in this filing. The Exchange also does not propose to amend the calculation methodology for Trading Permit fees or MEI Port fees in this filing.

Monthly Market Maker Trading Permit Fee Clarifying Changes

First, the Exchange proposes to amend Section 3)b) of the Fee Schedule to amend the text below the table for the monthly Trading Permit fees applicable to Market Makers. Specifically, the Exchange proposes to add the following two clarifying sentences to begin the explanatory paragraph following the table for the monthly Trading Permit fees applicable to Market Makers:

For the calculation of the monthly Market Maker Trading Permits, the applicable fee rate is the lesser of either the per class basis or percentage of total national average daily volume measurement. The amount of monthly Market Maker Trading Permit Fee will be based upon the number of classes in which the Market Maker was assigned to quote on any given day within the calendar month, or upon the class volume percentages set forth in the above table.

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<sup>3</sup> The term “Market Makers” refers to “Lead Market Makers,” “Primary Lead Market Makers,” and “Registered Market Makers” collectively. See Exchange Rule 100.

<sup>4</sup> MIAX Emerald Express Interface (“MEI”) is a connection to the MIAX Emerald System that enables Market Makers to submit simple and complex electronic quotes to MIAX Emerald. See the Definitions Section of the Fee Schedule.

The Exchange also proposes to remove the following sentence, which is currently the first sentence of the explanatory paragraph below the table for the monthly Trading Permit fees applicable to Market Makers:

For the calculation of the monthly Market Maker Trading Permit Fees, the number of classes is defined as the greatest number of classes the Market Maker was assigned to quote in on any given day within the calendar month and the class volume percentage is based on the total national average daily volume in classes listed on MIAX Emerald in the prior calendar quarter.

In place of the deleted sentence described above, the Exchange proposes to insert the following two sentences, which will become sentences three and four of the revised explanatory paragraph:

The Exchange will assess MIAX Emerald Market Makers the monthly Market Maker Trading Permit Fee based on the greatest number of classes listed on MIAX Emerald that the MIAX Emerald Market Maker was assigned to quote in on any given day within a calendar month. The class volume percentage is based on the total national average daily volume in classes listed on MIAX Emerald in the prior calendar quarter.

The Exchange notes that these two sentences are a combination of sentences already included in the explanatory paragraph. In connection with all of the changes described above, the Exchange proposes to delete the following sentence:

The Exchange will assess MIAX Emerald Market Makers the monthly Market Maker Trading Permit Fee based on the greatest number of classes listed on MIAX Emerald that the MIAX Emerald Market Maker was assigned to quote in on any given day within a calendar month and the applicable fee rate that is the lesser of either the per class basis or percentage of total national average daily volume measurement.

The Exchange notes that all of these changes, when taken together, do not alter the calculation methodology for how the Exchange currently calculates monthly Trading Permit fees for Market Makers. These changes are being made solely to clarify the explanatory paragraph below the table of fees for monthly Trading Permit fees for Market Makers. The Exchange believes that these revised sentences summarize that the monthly Market Maker Trading Permit fee rate is the lesser of the per class basis or the percentage of total national average daily volume measure and

better clarifies how the MIAX Market Maker Trading Permit fee will continue to be calculated and applied each month. The Exchange does not propose to amend the amount or calculation of the monthly Trading Permit fee for Market Makers.

#### MEI Port Fee Clarifying Changes

Next, the Exchange proposes to amend Section 5)d)ii) of the Fee Schedule to make non-substantive, clarifying changes to the explanatory paragraph below the table of MEI Port fees applicable to Market Makers. The Exchange proposes to move the current first sentence of the explanatory paragraph below the table of MEI Port fees applicable to Market Makers in Section 5)d)ii) to now be the final sentence. In its place, the Exchange proposes to add the following sentence: “The applicable fee rate is the lesser of either the per class basis or percentage of total national average daily volume measurement.” In connection with this change, the Exchange proposes to amend the sentence that will now follow the new first sentence of the explanatory paragraph. In particular, the Exchange proposes to add “MIAX Emerald Express Interface” to the second sentence of the explanatory paragraph to contain the full term, “MIAX Express Interface (‘MEI’)” Port. The final sentence of the explanatory paragraph will now read as follows: “MIAX Emerald will assess monthly MEI Port Fees on Market Makers in each month the Member has been credentialed to use the MEI Port in the production environment and has been assigned to quote in at least one class.”

Further, following the above changes, the Exchange proposes to amend the second sentence of the explanatory paragraph to remove the word “and” that connects the two clauses describing how the Exchange calculates the monthly MEI Port fee for Market Makers. In place of the word “and,” the Exchange proposes to clarify that the amount of the monthly MEI Port fee will be based upon the number of classes in which the Market Maker was assigned to quote on

any given day within the calendar month, or upon the class volume percentages set forth in the MEI Port fee table.

The Exchange further proposes to remove the fifth sentence of the explanatory paragraph below the table of MEI Port fees in Section 5)d)ii) and move it up in the paragraph, immediately following the second sentence. With this change, the third sentence of the explanatory paragraph will be as follows: “The Exchange will assess MIAX Emerald Market Makers the monthly MEI Port Fee based on the greatest number of classes listed on MIAX Emerald that the MIAX Emerald Market Maker was assigned to quote in on any given day within a calendar month.” This phrase is currently contained in the fifth sentence of the explanatory paragraph and the Exchange now proposes to make the phrase its own sentence and move it earlier in the paragraph. The Exchange believes that these revised sentences summarize that the monthly MEI Port fee rate is the lesser of either the per class basis or percentage of total national average daily volume measurement and better clarifies how the monthly MEI Port fee for Market Makers will continue to be calculated and applied. The Exchange does not propose to amend the amount or calculation of the monthly MEI Port fee for Market Makers.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act<sup>5</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>6</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free

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

<sup>6</sup> 15 U.S.C. 78f(b)(4) and (5).

and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, and dealers.

The Exchange believes the proposed changes are consistent with Section 6(b)(4) of the Act in that they are reasonable, equitable, and not unfairly discriminatory because they are non-substantive, clarifying changes regarding the Exchange's monthly Trading Permit and MEI Port fees applicable to Market Makers and will reduce the risk of confusion to market participants. The proposed changes promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest by clarifying how the MIAX Emerald Market Maker Trading Permit fee and the MEI Port fee will be calculated and applied each month. The Exchange believes that these proposed changes will provide greater clarity to Members and the public regarding the Exchange's Fee Schedule and that it is in the public interest for the Fee Schedule to be accurate and concise so as to eliminate the potential for confusion.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes the proposed change will not impose any burden on intra-market competition as the proposed rule change will have no impact on competition as it is not designed to address any competitive issue but rather is designed to remedy minor non-substantive, clarifying issues and provide added clarity to the Fee Schedule. In addition, the Exchange does not believe the proposal will impose any burden on inter-market competition as the proposal does not address any competitive issues and is intended to protect investors by providing further transparency regarding the Exchange's Fee Schedule.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

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)(ii) of the Act,<sup>7</sup> and Rule 19b-4(f)(2)<sup>8</sup> thereunder. 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>);

or

- Send an e-mail [to rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-EMERALD-2021-36 on the subject line.

Paper comments:

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<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).



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

All submissions should refer to File Number SR-EMERALD-2021-36. This file number should be included on the subject line if e-mail 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 Web site (<http://www.sec.gov/rules/sro.shtml>).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-EMERALD-2021-36 and should be submitted on or before [insert date 21 days from publication in the Federal Register]. For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

Vanessa Countryman  
Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

New text is underlined;  
 Deleted text is in [brackets]

**MIAX Emerald Fee Schedule**

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**3) Membership Fees**

a) No change.

**b) Monthly Trading Permit Fee**

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Type of Trading Permit	Monthly MIAX Emerald Trading Permit Fee	Market Maker Assignments (the lesser of the applicable measurements below)	
		Per Class	% of National Average Daily Volume
Market Maker (includes RMM, LMM, PLMM)	\$7,000.00	Up to 10 Classes	Up to 20% of Classes by volume
	\$12,000.00	Up to 40 Classes	Up to 35% of Classes by volume
	\$17,000.00 <sup>■</sup>	Up to 100 Classes	Up to 50% of Classes by volume
	\$22,000.00 <sup>■</sup>	Over 100 Classes	Over 50% of Classes by volume up to all Classes listed on MIAX Emerald

- For these Monthly MIAX Emerald Trading Permit tier levels, if the Market Maker’s total monthly executed volume during the relevant month is less than 0.025% of the total monthly executed volume reported by OCC in the customer account type for MIAX Emerald-listed option classes for that month, then the fee will be \$15,500 instead of the fee otherwise applicable to such level.

For the calculation of the monthly Market Maker Trading Permits, the applicable fee rate is the lesser of either the per class basis or percentage of total national average daily volume measurement. The amount of monthly Market Maker Trading Permit Fee will be based upon the number of classes in which the Market Maker was assigned to quote on any given day within the calendar month, or upon the class volume percentages set forth in the above table. [For the calculation of the monthly Market Maker Trading Permit Fees, the number of classes is defined as the greatest number of classes the Market Maker was assigned to quote in on any given day within the calendar month and the class volume percentage is based on the total national average daily volume in classes listed on MIAX Emerald in the prior calendar quarter.] The Exchange will assess MIAX Emerald Market Makers the monthly Market Maker Trading Permit Fee based on the greatest number of classes listed on MIAX Emerald that the MIAX Emerald Market Maker was assigned to quote in on any given day within a calendar month. The class volume percentage is based on the total national average daily volume in classes listed on MIAX Emerald in the prior calendar quarter. Newly listed option classes are excluded from the calculation of the monthly Market Maker Trading Permit Fee until the calendar quarter following their listing, at which time the newly listed option classes will be included in both the per class count and the percentage of total national average daily volume.[ The

Exchange will assess MIAX Emerald Market Makers the monthly Market Maker Trading Permit Fee based on the greatest number of classes listed on MIAX Emerald that the MIAX Emerald Market Maker was assigned to quote in on any given day within a calendar month and the applicable fee rate that is the lesser of either the per class basis or percentage of total national average daily volume measurement.]

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### 5) System Connectivity Fees

a) – c) No change.

#### d) Port Fees

i) No change.

#### ii) MEI Port Fees

Monthly MIAX Emerald MEI Fees	Market Maker Assignments (the lesser of the applicable measurements below)	
	Per Class	% of National Average Daily Volume
\$5,000.00	Up to 5 Classes	Up to 10% of Classes by volume
\$10,000.00	Up to 10 Classes	Up to 20% of Classes by volume
\$14,000.00	Up to 40 Classes	Up to 35% of Classes by volume
\$17,500.00 <sup>■</sup>	Up to 100 Classes	Up to 50% of Classes by volume
\$20,500.00 <sup>■</sup>	Over 100 Classes	Over 50% of Classes by volume up to all Classes listed on MIAX Emerald

- For these Monthly MIAX Emerald MEI Port tier levels, if the Market Maker's total monthly executed volume during the relevant month is less than 0.025% of the total monthly executed volume reported by OCC in the customer account type for MIAX Emerald-listed option classes for that month, then the fee will be \$14,500.00 instead of the fee otherwise applicable to such level.

[MIAX Emerald will assess monthly MIAX Emerald Express Interface (“MEI”) Port Fees on Market Makers in each month the Member has been credentialed to use the MEI Port in the production environment and has been assigned to quote in at least one class.] The applicable fee rate is the lesser of either the per class basis or percentage of total national average daily volume measurement. The amount of the monthly MIAX Emerald Express Interface (“MEI”) Port Fee will be based upon the number of classes in which the Market Maker was assigned to quote on any given day within the calendar month, [and]or upon the class volume percentages set forth in the above table. The Exchange will assess MIAX Emerald Market Makers the monthly MEI Port Fee based on the greatest number of classes listed on MIAX Emerald that the MIAX Emerald Market Maker was assigned to quote in on any given day within a calendar month. The class volume percentage is based on the total national average daily volume in classes listed on MIAX Emerald in the prior calendar quarter. Newly listed option classes are excluded from the calculation of the monthly MEI Port Fee until the calendar quarter following their listing, at which time the newly listed option classes will be included in both the per class count and the percentage of total national average daily volume.[ The Exchange will assess MIAX Emerald Market Makers the monthly MEI Port Fee based on the greatest number of classes listed on MIAX Emerald that the MIAX Emerald

Market Maker was assigned to quote in on any given day within a calendar month and the applicable fee rate that is the lesser of either the per class basis or percentage of total national average daily volume measurement.]

MIAX Emerald will assess monthly MEI Port Fees on Market Makers in each month the Member has been credentialed to use the MEI Port in the production environment and has been assigned to quote in at least one class.

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