

## SECURITIES AND EXCHANGE COMMISSION

Investment Company Act Release No. 34505; File No. 812-15243

Alpha Architect ETF Trust and Empowered Funds, LLC

February 15, 2022

AGENCY: Securities and Exchange Commission (“Commission” or “SEC”).

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (“Act”) for an exemption from section 15(a) of the Act. The requested exemption would permit an investment adviser to hire and replace certain subadvisers without shareholder approval.

Applicants: Alpha Architect ETF Trust (the “Trust”), a Delaware statutory trust registered under the Act as an open-end management investment company, and Empowered Funds, LLC, Pennsylvania limited liability company registered as an investment adviser under the Investment Advisers Act of 1940 (the “Adviser” or “Empowered” and, collectively with the Trust, the “Applicants”).

Filing Dates: The application was filed on June 28, 2021 and amended on December 17, 2021.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by e-mailing the Commission’s Secretary at [Secretarys-Office@sec.gov](mailto:Secretarys-Office@sec.gov) and serving the Applicants with a copy of the request by e-mail, if an e-mail address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on March 14, 2022, and should be accompanied by proof of service on the Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act,

hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested.

Persons who wish to be notified of a hearing may request notification by e-mailing the Commission's Secretary.

ADDRESSES: The Commission: [Secretarys-Office@sec.gov](mailto:Secretarys-Office@sec.gov). Applicants: Michael Pellegrino, Esq. at [mp@pell-law.com](mailto:mp@pell-law.com).

FOR FURTHER INFORMATION CONTACT: Jill Ehrlich, Senior Counsel, or Lisa Reid Ragen, Branch Chief, at (202) 551-6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' amended and restated application, dated December 17, 2021, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at <https://www.sec.gov/edgar/searchedgar/legacy/companysearch.html>. You may also call the SEC's Public Reference Room at (202) 551-8090.

Summary of the Application:

1. The Adviser serves as the investment adviser to the Funds pursuant to investment advisory agreements with the Trust on behalf of each Fund (collectively, the "Advisory Agreements").<sup>1</sup> The Adviser is responsible for the overall management of the Funds' business

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<sup>1</sup> Applicants request relief with respect to any existing or future series of the Trust and any other existing or future registered open-end management investment company or series thereof that: (a) is advised by Empowered, or any entity controlling, controlled by or under common control with Empowered or its successors (each, also an "Adviser"); (b) uses the manager-of-managers structure described in the application; and (c) complies with the terms and conditions of the application (any such series, a "Fund" and collectively, the "Funds"). For purposes of the

affairs and selecting investments according to the Funds' investment objectives, policies, and restrictions, subject to the authority of the board of trustees of the Trust ("Board"). The Advisory Agreements permit the Adviser, subject to the approval of the Board, to delegate to one or more unaffiliated subadvisers (each, a "Subadviser" and collectively, the "Subadvisers") the responsibility to provide the day-to-day portfolio investment management of each Fund, subject to the supervision and direction of the Adviser. The primary responsibility for managing the Funds will remain vested in the Adviser. The Adviser will hire, evaluate, allocate assets to and oversee the Subadvisers, including determining whether a Subadviser should be terminated, at all times subject to the authority of the Board.

2. Applicants request an exemption to permit the Adviser, subject to Board approval, to hire certain Subadvisers pursuant to subadvisory agreements ("Subadvisory Agreements") and materially amend existing Subadvisory Agreements without obtaining the shareholder approval required under section 15(a) of the Act.<sup>2</sup>

3. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Such terms and conditions provide for, among other safeguards, appropriate disclosure to Fund shareholders and notification about subadvisory changes and enhanced Board oversight to protect the interests of the Funds' shareholders.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or any rule thereunder, if such relief is necessary or appropriate in the

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requested order, "successor" is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

<sup>2</sup> The requested relief will not extend to any subadviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Trust, a Fund or the Adviser, other than by reason of serving as a subadviser to one or more of the Funds.

public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard because, as further explained in the application, the Advisory Agreements will remain subject to shareholder approval, while the role of the Subadvisers is substantially similar to that of individual portfolio managers, so that requiring shareholder approval of Subadvisory Agreements would impose unnecessary delays and expenses on the Funds.

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

J. Matthew DeLesDernier  
Assistant Secretary