

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-77871; File No. SR-BATS-2015-100)

May 20, 2016

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change, as Modified by Amendments Nos. 1, 3, and 4 thereto, to Amend BATS Rule 14.11(i) to Adopt Generic Listing Standards for Managed Fund Shares

On November 18, 2015, BATS Exchange, Inc. (now known as Bats BZX Exchange, Inc., “Exchange”)¹ filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b-4 thereunder,³ a proposed rule change to amend BATS Rule 14.11(i) by, among other things, adopting generic listing standards for Managed Fund Shares. The proposed rule change was published for comment in the Federal Register on November 25, 2015.⁴ On January 4, 2016, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵ On February 9, 2016, the Exchange filed Amendment No. 1 to the proposed rule

¹ In March 2016, BATS changed its name from “BATS Exchange, Inc.” to “Bats BZX Exchange, Inc.” See Securities Act Release No. 77307 (Mar. 7, 2016), 81 FR 12996 (Mar. 11, 2016) (SR-BATS-2016-25) (publishing notice of the name change to Bats BZX Exchange, Inc.).

² 15 U.S.C. 78s(b)(1).

³ 17 CFR 240.19b-4.

⁴ See Securities Exchange Act Release No. 76478 (Nov. 19, 2015), 80 FR 73841 (“Notice”).

⁵ See Securities Exchange Act Release No. 76820, 81 FR 989 (Jan. 8, 2016). The Commission designated February 23, 2016 as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change. See id.

change,⁶ which replaced the originally filed proposed rule change in its entirety.⁷ On February 11, 2016, the Exchange both filed and withdrew Amendment No. 2 to the proposed rule change. On February 11, 2016, the Exchange filed Amendment No. 3 to the proposed rule change.⁸ On February 17, 2016, the Exchange filed Amendment No. 4 to the proposed rule change.⁹ On February 22, 2016, the Commission issued notice of filing of Amendment Nos. 1, 3, and 4 to the

⁶ Amendment No. 1: (1) clarifies the proposed treatment of convertible securities under the proposed generic listing criteria; (2) modifies the proposed criterion regarding American Depositary Receipts (“ADRs”) to provide that no more than 10% of the equity weight of the portfolio shall consist of non-exchange traded (rather than unsponsored) ADRs; (3) modifies the proposed portfolio limit on listed derivatives to require that at least 90% of the weight of such holdings invested in futures, exchange-traded options, and listed swaps shall, on both an initial and continuing basis, consist of futures, options, and swaps for which the Exchange may obtain information via the Intermarket Surveillance Group (“ISG”) from other members or affiliates of the ISG or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement (“CSSA”); (4) provides that a portfolio’s investments in listed and over-the-counter derivatives will be calculated for purposes the proposed limits on such holdings as the total absolute notional value of the derivatives; (5) makes certain other conforming and clarifying changes. The amendments to the proposed rule change are available at: <http://www.sec.gov/comments/sr-bats-2015-100/bats2015100.shtml>.

⁷ See Amendment No. 1, *supra* note 6, at 4.

⁸ Amendment No. 3 deletes from the proposal the following two sentences: (1) “Such limitation will not apply to listed swaps because swaps are listed on swap execution facilities (“SEFs”), the majority of which are not members of ISG.” and (2) “Such limitation would not apply to listed swaps because swaps are listed on SEFs, the majority of which are not members of ISG.” Amendment No. 3 also corrects an erroneous statement in Item 11 to indicate that an Exhibit 4 was included in Amendment No. 1.

⁹ Amendment No. 4 deletes from the proposal the following sentence: “Thus, if the limitation applied to swaps, there would effectively be a cap of 10% of the portfolio invested in listed swaps.” Amendment No. 4 also amends two representations as follows (added language in brackets): The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in Managed Fund Shares [and their underlying components] with other markets that are members of the ISG, including all U.S. securities exchanges and futures exchanges on which the components are traded[, or with which the Exchange has in place a CSSA.] In addition, the Exchange or FINRA[,] on behalf of the Exchange[,] may obtain information regarding trading in Managed Fund Shares [and their underlying components] from other markets that are members of the ISG, including all U.S. securities exchanges and futures exchanges on which the components are traded, or with which the Exchange has in place a CSSA.”

proposed rule change and instituted proceedings under Section 19(b)(2)(B) of the Act¹⁰ to determine whether to approve or disapprove the proposed rule change, as modified by Amendment Nos. 1, 3, and 4 thereto.¹¹ In the Order Instituting Proceedings, the Commission solicited comments to specified matters related to the proposal.¹² The Commission has not received any comments on the proposed rule change

Section 19(b)(2) of the Act¹³ provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change. The Commission may, however, extend the period for issuing an order approving or disapproving the proposed rule change by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the Federal Register on November 25, 2015.¹⁴ The 180th day after publication of the notice of the filing of the proposed rule change in the Federal Register is May 23, 2016.

¹⁰ 15 U.S.C. 78s(b)(2)(B).

¹¹ See Securities Exchange Act Release No. 77202, 81 FR 9889 (Feb. 26, 2016) (“Order Instituting Proceedings”). Specifically, the Commission instituted proceedings to allow for additional analysis of the proposed rule change’s consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be “designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,” and “to protect investors and the public interest.” See id., 81 FR at 9897.

¹² See id.

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ See supra note 4 and accompanying text.

The Commission finds that it is appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change, as modified by Amendment Nos. 1, 3, and 4 thereto.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹⁵ designates July 22, 2016, as the date by which the Commission shall either approve or disapprove the proposed rule change, as modified by Amendment Nos. 1, 3, and 4 thereto (File No. SR-BATS-2015-100).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Robert W. Errett
Deputy Secretary

¹⁵ 15 U.S.C. 78s(b)(2).

¹⁶ 17 CFR 200.30-3(a)(57).