



November 25, 2016

Mr. Brent J. Fields
Secretary
U.S. Securities and Exchange Commission
100 F. Street N.E.
Washington, D.C. 20549-1090

**RE: Exchange Act Release No. 78653, File No. SR-BatsBZX-2016-30 (the
“Proposal”)**

Dear Mr. Fields:

Bats Global Markets, Inc. (“Bats” or the “Exchange”) appreciates the opportunity to comment on the Proposal and submits this letter in response to those public comment letters already received with respect to the Proposal during both of the comment periods described below. The Proposal, which relates to the potential listing of the Winklevoss Bitcoin Shares (the “Shares”) issued by the Winklevoss Bitcoin Trust (the “Trust”), was originally published for comment in the Federal Register on July 14, 2016¹ and was again published for comment in the Federal Register as part of the Order Instituting Proceedings on October 12, 2016 (the “October 12 Order”).² The first amendment to the proposal was published to the Federal Register on November 3, 2016.³

First, Bats would like to acknowledge the thoughtfulness of many of the letters submitted by members of the public during the comment periods and believe that such extensive feedback demonstrates the public’s interest in investment vehicles which allow exposure to digital assets in general and the importance of judicious and transparent guidance and rulemaking by the Commission on this nascent asset class. Bats believes that the Trust, which is sponsored by Digital Asset Services, LLC (the “Sponsor”), represents a robust and carefully designed implementation of an investment vehicle suitable for listing and trading on the Exchange.

In order to expediently address the individual concerns of the comment letters submitted during the comment period, of which there are 25 as of November 17, 2016, this comment letter will address them as applicable under each of the six topics on which the Commission sought comment in its October 12 Order.

¹ See Securities Exchange Act Release No. 78653 (July 8, 2016), 81 FR 45554 (July 14, 2016) (SR-BatsBZX-2016-30).

² See Securities Exchange Act Release No. 79084, 81 FR 71778 (Oct. 18, 2016) (SR-BatsBZX-2016-30).

³ See Securities Exchange Act Release No. 79183 (October 26, 2016), 81 FR 76650 (October 28, 2016) (SR-BatsBZX-2016-30).

1. What are commenters' views about the current stability, resilience, fairness, and efficiency of the markets on which [bitcoins] are traded? What are commenters' views on whether an asset with the novel and unique properties of a bitcoin is an appropriate underlying asset for a product that will be traded on a national securities exchange? What are commenters' views on the risk of loss via computer hacking posed by such an asset? What are commenters' views on whether an ETP based on such an asset would be susceptible to manipulation?

As noted by a variety of commenters⁴ and as demonstrated by a variety of empirical measures, the global bitcoin marketplace has matured substantially over the last several years. Not only does price discovery occur on a wide variety of diverse and independent exchanges, price stability itself has increased as well, with daily volatility of returns similar to that of other commonly traded asset classes.⁵ Like any developing asset class, this trend is likely to continue and to ultimately be aided by the availability of regulated investment vehicles such as the proposed Shares of the Trust. The increasing strength and resilience of the global bitcoin marketplace only serves to reduce the likelihood of price manipulation. In fact, it is widely accepted that arbitrage opportunities across globally diverse marketplaces allow market participants to ensure approximately equivalent pricing worldwide.⁶ Bitcoin pricing, despite its relative novelty, has evolved to a level of worldwide pricing efficiency similar to other global commodities, in part due to the ease with which it can be “transported” between marketplaces in diverse geographies and jurisdictions.

In addition, the emergence of diverse exchanges and marketplaces has further contributed to the robustness of the global bitcoin marketplace, as it would for any traditional asset class. The global bitcoin marketplace is unique, however, in that so-called “exchanges” typically also provide services which for other asset classes are often segregated into separate entities, namely, brokerages, clearinghouses, and depositories. Unfortunately, only a minority of global bitcoin exchanges are fully regulated for their fiduciary and custodial activities. Gemini Trust Company, LLC, the proposed custodian of the Trust (the “Custodian”), and itBit Trust Company, LLC, are,

⁴ See, e.g., letters from Chris Burniske (November 8, 2016) (hereinafter, “Burniske Letter”), Rodger Delehanty (October 14, 2016) (hereinafter, “Delehanty Letter”), Xin Lu (October 13, 2016) (hereinafter, “Lu Letter”) Guillaume Lethuillier (July 26, 2016) (hereinafter, “Lethuillier Letter”), and Dylan (October 14, 2016) (hereinafter, “Dylan Letter”). All comments on the proposed rule change are available on the Commission’s website at: <https://www.sec.gov/comments/sr-batsbzx-2016-30/batsbzx201630.shtml>.

⁵ See, e.g., Burniske Letter at 3–4, citing data sourced from Bloomberg and CoinDesk; Andrew Griffin, *Pound sterling becomes more unstable than Bitcoin following Brexit*, The Independent, July 10, 2016, available at: <http://www.independent.co.uk/news/business/news/brexit-pound-sterling-bitcoin-prices-unstable-volatile-exchange-referendum-a7129311.html>; and Stephanie Yang, *Is Bitcoin Becoming More Stable than Gold?*, The Wall Street Journal, April 19, 2016, available at: <http://blogs.wsj.com/moneybeat/2016/04/19/is-bitcoin-becoming-more-stable-than-gold/>.

⁶ This concept is ubiquitous in the study of microeconomics and is termed the “Law of One Price.” See generally Karl Gunnar Persson, *Definitions and Explanation of the Law of One Price*, Economic History Services, February 10, 2008, available at: <http://eh.net/encyclopedia/the-law-of-one-price/> (an academic and historical discussion of the Law of One Price).

to our knowledge, the only two exchange operators which are subject to substantive regulation.⁷ Each is overseen by the New York State Department of Financial Services (the “NYSDFS”).

Although no federal agency has yet sought to explicitly regulate bitcoin, the Commodity Futures Trading Commission (the “CFTC”) has expressly stated its view that bitcoin is a commodity⁸ as defined under the Commodities Exchange Act of 1936 (the “CEA”).⁹ Bats agrees with this classification in that, while novel and unique in some regards, bitcoin is similar to other commodities, such as gold, which currently form the basis of a number of Commission-approved ETPs similar in structure to the proposed Trust.¹⁰

Because the CFTC has expressly designated bitcoin as a commodity, the CFTC is broadly responsible for the integrity of bitcoin spot markets in the United States.¹¹ While the CFTC has not yet brought any enforcement actions based on the anti-manipulation provisions of the CEA, it has issued orders against bitcoin exchanges both domestically and abroad for engaging in other activity prohibited by the CEA.¹² As such, a regulatory framework for providing oversight and deterring market manipulation currently exists in the United States.

Despite existing regulation, hacking and theft of funds on exchanges or other marketplaces unaffiliated with the Trust nevertheless have the potential to affect the price of bitcoin. In the past, major hacking events have led to temporary price dislocations; however, as noted above, the availability of diverse trading venues suggests that an isolated event, even if significant in scale, is unlikely to result in a single point of failure in the global bitcoin marketplace. On a related issue, the Exchange notes that the Custodian has instituted extremely robust security measures with respect to the bitcoin held on behalf of the Trust, as detailed in the most recent amendment to its Registration Statement¹³ and as quoted below.

2. According to the Exchange, the Gemini Exchange Spot Price is representative of the accurate price of a bitcoin because of the positive price-discovery attributes of the Gemini

⁷ See, e.g., NY Banking Law § 102-a, which defines and states requirements of limited liability trust companies; and § 96 *et seq.*, which enumerates the general powers and obligations of such companies.

⁸ See *In re Coinflip, Inc.*, No. 15-29 (CFTC Sept. 17, 2015) (hereinafter, “Coinflip”).

⁹ 7 U.S.C. § 1a(9). In effect, the CFTC’s ruling implicitly indicated that bitcoin is an “exempt commodity,” as defined in 7 U.S.C. § 1a(20).

¹⁰ See, e.g., SPDR Gold Trust (“GLD”), iShares Gold Trust (“IAU”), and iShares Silver Trust (“SLV”).

¹¹ “[I]t shall be unlawful for any person, directly or indirectly, to manipulate or attempt to manipulate the price of...any commodity.” 7 U.S.C. §9(3).

¹² See, e.g., Coinflip (respondents operated a facility for trading swaps without being registered as a swap execution facility or designated contract market); *In re BFXNA Inc.*, Case No. 16-19 (CFTC June 2, 2016) (hereinafter, “BFXNA”) (respondent permitted users to borrow funds for trading on a leveraged, margined, or financed basis without registration with the CFTC); and *In re TeraExchange LLC*, Case No. 15-33 (CFTC September 24, 2015) (respondent enabled a transaction in a non-deliverable forward contract without registration with the CFTC).

¹³ See Amendment No. 7 to the Registration Statement on Form S-1 of Winklevoss Bitcoin Trust, as filed with the U.S. Securities and Exchange Commission on October 18, 2016 (available at <https://www.sec.gov/Archives/edgar/data/1579346/000119312516740874/d252018ds1a.htm>) (hereinafter, “Amendment No. 7”).

Exchange marketplace. What are commenters' views on the manner in which the Trust proposes to value its holdings?

Several comment letters express concern about the determination of the Trust's net asset value (the "NAV") and consequently the value of the Trust's holdings.¹⁴ First, Bats notes that the Sponsor has updated the description in the Registration Statement of the NAV calculation mechanism for the Trust to reflect the use of the Gemini Exchange Auction Price (as discussed below). As detailed below and in the Registration Statement, The Exchange expects that the Gemini Exchange Auction Price will provide an accurate representation of the price of bitcoin on each day the Exchange is open for trading. Moreover, as described in detail in the Registration Statement, if the Sponsor determines in good faith on a given day that the Gemini Exchange Auction Price does not reflect the fair market value for bitcoin, the Sponsor has established an alternate means by which to value the Trust's bitcoin.

While bitcoin price "indices" using weighted or time-lagged averaging of prices across multiple venues (or, in the case of one particular "index," a single venue) have become commonplace within the bitcoin ecosystem, this is an anomaly for a fungible asset. The Exchange is unaware of another fungible asset in which such indexing methodologies are used. Equitable pricing across marketplaces in other fungible assets, such as commodities and equities, occurs because arbitrageurs and other market participants are driven by their own economic interest. Other series of Commodity-Based Trust Shares such as GLD and IAU are based on pricing information from a single market, the LBMA Gold Price, and the Exchange does not believe that there is any reason that the Shares should be treated any differently.

Furthermore, the Exchange believes that the use of a single pricing mechanism will lead to a more stable valuation since it will allow for simple arbitrage to occur between the price of the underlying asset and that of the Trust. If an index were used to value the Trust instead of a spot price, especially if such an index were based on price history across multiple exchanges, this arbitrage mechanism could become less efficient and ineffective. To make matters worse, some of these so-called "indices" are based on proprietary and undisclosed formulae and weightings which purport to emphasize reputability of constituents, but instead include exchanges which have had major security breaches and material regulatory violations.¹⁵ Rather, the Trust's price stability will be achieved by leveraging a specific, transparent, point-in-time price which can easily respond to changes in demand, parallel to pricing of the Trust itself on the Exchange and other national exchanges. Please refer to the discussion of the Gemini Exchange Auction Price below for a more detailed treatment of the Trust's proposed NAV pricing mechanism.

¹⁴ See, Dylan Letter; Burniske Letter; letter from Jorge Stolfi (November 1, 2016) (hereinafter "Second Stolfi Letter").

¹⁵ In August 2016, a security breach at Bitfinex, a large, Hong Kong based bitcoin exchange, resulted in the loss of 120,000 bitcoin, and in January 2015, Bitstamp, another bitcoin exchange, experienced a hacking attack that resulted in the theft of bitcoin worth over \$5,000,000. Additionally, the CFTC stated in its June 2016 order settling charges against Bitfinex that Bitfinex had, in connection with its facilitation of certain borrowing transactions, engaged in "illegal, off-exchange commodity transactions" and had "failed to register as a futures commission merchant." See BFXNA.

Another important consideration is market participants' ability to access and interact with the Gemini Exchange Auction Price. In addition to membership with the Exchange that subjects Members (as defined in Rule 1.5(n) of Bats BZX Exchange) to the panoply of Exchange rules, nearly all Members are also members of other national exchanges and FINRA-registered broker dealers who also fall under the regimes of other federal regulators. As such, these organizations must comply with strict regulations and must adhere to internal compliance policies. The exchange operated by the Custodian, adheres to standards of oversight and regulation, as detailed in the most recent amendment to the Proposal¹⁶ and the most recent amendment to the Trust's Registration Statement.¹⁷ Furthermore, the Custodian is chartered as a limited purpose trust company under existing New York State law, with full responsibilities and obligations as a fiduciary and custodian of digital assets. It is critical that all national exchange members and regulated financial institutions be able to participate in the pricing mechanism to be used by the Trust, undeterred by concerns of inadvertently contributing to money laundering, violations of federal regulations, including the Bank Secrecy Act,¹⁸ and other unlawful activity.

3. According to the Exchange, the Gemini Exchange is a Digital Asset exchange owned and operated by the Custodian and is an affiliate of the Sponsor. What are commenters' views regarding whether any potential conflict of interest or other issue might arise due to the relationship between entities such as the Sponsor, the Custodian, and the Gemini Exchange?

Conflicts of interest, if not clearly disclosed and managed properly, can dramatically and irreparably harm investor confidence in investment vehicles. In the case of the proposed Trust, these relationships are fully disclosed, both in the most recent amendment to the Proposal¹⁹ and the most recent amendment to the Trust's Registration Statement.²⁰ The Sponsor is responsible for compensating the Custodian out of its Sponsor Fee, so there is no separate charge borne by investors. In addition, the Gemini Exchange will supply the Gemini Exchange Auction Price to the Trust at no charge. Furthermore, it is not uncommon in similar products for affiliated entities to occupy multiple service provider roles. In the case of the proposed Trust, the participation of wholly unaffiliated service providers, namely State Street Bank and Trust Company as administrator and transfer agent, Burr Pilger Mayer, certified public accountants, as auditor (the "Auditor"), and Delaware Trust Company as trustee, mitigates any potential conflicts.

¹⁶ See supra note 3.

¹⁷ See supra note 13.

¹⁸ See 31 U.S.C. 5311 et seq.

¹⁹ See supra note 3.

²⁰ See supra note 13.

The hypothetical scenarios proposed by one of the commenters²¹ are explicitly prohibited by federal regulation,²² state regulation,²³ and the Supervisory Agreement between the Custodian and the NYSDFS, and may represent a misunderstanding of extant regulatory framework. The degree to which the NYSDFS oversees and audits the Custodian as a licensed fiduciary makes improprieties very unlikely; they would be punishable by revocation of the trust company's charter, civil prosecution, and criminal prosecution.²⁴ Moreover, as discussed below, monthly "proof of control" audits performed by the Auditor will verify both the quantity of bitcoin held by the Trust and the Custodian's control over that quantity of bitcoin. In addition, the Auditor will audit the financial statements and other regulatory filings of the Trust, and the Custodian has engaged an independent auditor to evaluate many of its own internal policies and controls.

4. According to several commenters, there is a need for the Exchange to provide additional information regarding "proof of control" auditing, multisig protocols, and insurance with respect to the bitcoins held in custody on behalf of the Trust, in the interest of adequate security and investor confidence in bitcoin control. What are commenters' views on these recommendations regarding additional security, control, and insurance measures?

Bats agrees with several commenters²⁵ that security and control of the Trust's bitcoin are important topics for potential investors in the Trust, and these topics, including further clarification of the Custodian's "multisig" protocols and "proof of control" audits, are presented in the most recent amendment to the Proposal²⁶ and the most recent amendment to the Registration Statement,²⁷ with additional detail not disclosed in prior filings:

... the Custodian's Cold Storage System generates, stores, and manages the private keys that control the Trust's bitcoin onboard hardware security modules ("HSMs") for the lifetime of each private key. The Cold Storage System only uses HSMs that have achieved a rating of FIPS PUB 140-2 Level 3 (or higher). HSMs (each, a "Signer") are tamper-resistant computers used by the Custodian to digitally sign (i.e., authenticate) any transfer of the Trust's bitcoin. All Signers are stored, as well as backed up, in various geographically distributed, access-controlled facilities throughout the United States. In addition, the Custodian's Cold Storage System utilizes multiple-signature ("Multisig") technology with a "2-of-3" signing design that requires a signature from at least two (2) of three (3) potential Signers in order to move the Trust's bitcoin. This provides both security against attacks and tolerance to losing access to a minority of facilities or private keys, thereby eliminating single points of failure. In addition, the operation of a Signer requires the

²¹ See Burniske Letter at 9.

²² See, e.g., 7 U.S.C. § 2(c)(2)(D), which generally prohibits leveraged or margined retail transaction of commodities by unregistered entities; 15 U.S.C. § 78g(d), which generally prohibits extension of margin trading of securities by unregistered entities;

²³ See supra note 7.

²⁴ See, e.g., NY Banking Law § 40 *et seq.*, which enumerates violations and details penalties, including revocation of license and suspension of activities.

²⁵ See Second Stolfi Letter, Burniske Letter, Lethuillier Letter, Delehanty Letter, Dylan Letter, and letters from Michael B. Casey (July 31, 2016) (hereinafter, "First Casey Letter"), Erik A. Aronesty, Sr. (August 2, 2016) (hereinafter, "Aronesty Letter"), and Michael B. Casey (November 5, 2016) (hereinafter, "Second Casey Letter").

²⁶ See supra note 3.

²⁷ See supra note 13.

coordinated actions of multiple individuals (each a “Signatory”) to protect against insider malfeasance. All Signatories have undergone background checks by a third-party vendor and are subject to, with or without the Signatory’s knowledge, ongoing background checks at the discretion of the Custodian. All Signatories have been fingerprinted, and all fingerprint cards and accompanying information are retained by the Custodian for the duration of the Signatory’s tenure and for a minimum of three (3) years thereafter. Lastly, the Cold Storage System is comprised of hardware that is sourced from multiple, diverse manufacturers to guard against supply-chain risks.

The Custodian’s Cold Storage System was purpose-built to demonstrate “proof of control” of the private keys associated with its public Bitcoin addresses. More specifically, the Custodian can use Signers to sign a specific message chosen by the Custodian that references a current event (i.e., to prove recency), thereby proving control of the private keys associated with the public Bitcoin addresses in which the Trust’s bitcoin are held. This allows the Custodian to evidence control of the Trust’s assets periodically during audits on-demand and without necessitating the transfer of any of the Trust’s bitcoin.²⁸

The Sponsor has adopted several control procedures in addition to the safety features integral to the Cold Storage System’s design. For example, the Custodian will engage an independent audit firm to periodically audit the Custodian’s Cold Storage System protocols and internal controls (“Internal Controls Audit”), and report to the Custodian at least annually on such matters. Additionally, the Sponsor and the Custodian have engaged an independent audit firm to verify that the Custodian can demonstrate “proof of control” of the private keys that control the Trust’s bitcoin (“Proof of Control Audit”) on a monthly basis.²⁹

At this time, the Sponsor has not identified any feasible insurance product for the Trust, and as accurately noted by one commenter,³⁰ similar existing commodity-based ETPs also lack full insurance.

5. A commenter notes that the Gemini Exchange has relatively low liquidity and trading volume in bitcoins and that there is a significant risk that the nominal ETP share price “will be manipulated, by relatively small trades that manipulate the bitcoin price at that exchange.” What are commenters’ views on the concerns expressed by this commenter? What are commenters’ views regarding the susceptibility of the price of the Shares to manipulation, considering that the NAV would be based on the spot price of a single bitcoin exchange? What are commenters’ views generally with respect to the liquidity and transparency of the bitcoin market, and thus the suitability of bitcoins as an underlying asset for an ETP?

Since the October 12 Order, other commenters³¹ have similarly expressed concerns about price manipulation. One commenter aptly notes that “it is not uncommon to see a very small amount of physical trades determine the base price for a much larger paper market . . . for example Brent Crude.”³² The Exchange agrees that less liquid markets, such as the market for bitcoin, may be more manipulable, but believes that, for the reasons laid out below, such

²⁸ Supra note 13 at 85.

²⁹ Supra note 13 at 86.

³⁰ See Burniske Letter at 11, citing a recent 10-K filing for SPDR Gold Trust (“GLD”).

³¹ See Second Stolfi Letter, Delehanty Letter, and Dylan Letter.

³² Delehanty Letter at 2.

concerns are mitigated as it relates to the Shares of the Trust and trading activity on the Gemini Exchange.

Each of the most recent amendments to the Proposal³³ and the Registration Statement³⁴ note that the NAV of the proposed Trust will be based on the Gemini Exchange Auction Price:

At 4:00 pm. Eastern Time every day, the Gemini Exchange conducts a two-sided auction which is open to all exchange customers. Similar to the closing auction on Bats and other U.S. equities exchanges, the auction process incorporates both auction-only and continuous trading book orders to find a single price at which the most interest is eligible to trade (sometimes called “Walrasian equilibrium”). Because indicative auction pricing is published publicly throughout the ten (10) minutes prior to the auction, this mechanism allows participants to engage in thorough price discovery while concentrating liquidity and trading volume at a single moment each day.³⁵

The mechanism for this auction is extremely similar to the one leveraged for the Exchange’s own Opening and Closing Auctions.³⁶ This mechanism, which allows full and transparent participation from all Gemini Exchange participants in the price discovery process, leverages mechanics which have proven over the years to be robust and effective on the Exchange and other national listing exchanges in both liquid and illiquid securities alike. Moreover, because the timing of the Gemini Exchange Auction coincides with the Exchange’s Closing Auction, efficient real-time arbitrage between the closing price of the Trust and the Gemini Exchange Auction Price will be prevalent and will lead to resilient and effectual pricing of both the Trust and the underlying bitcoin asset, and lead to convergence between the Trust’s closing price and its NAV. At least one commenter agrees with this viewpoint.³⁷

On average, the daily Gemini Exchange Auction already transacts a volume greater than the proposed creation basket size (each Share represents approximately one tenth bitcoin and a creation basket is 10,000 Shares) for the Trust (approximately 1,000 bitcoin, as noted in the Registration Statement). This illustrates its viability as the pricing source for the NAV of the proposed Trust.

Furthermore, as noted in the most recent amendment to the Proposal³⁸ and the most recent amendment to the Registration Statement,³⁹ the Gemini Exchange Auction Price typically deviates very little from the prevailing price on other bitcoin exchanges at that time, providing empirical evidence that this pricing is consistent with other pricing sources: “Since launching on September 21, 2016 and through October 14, 2016, on [days on which the Exchange is open for trading], the Gemini Exchange Auction Price...has deviated from the median price of all U.S.-

³³ See supra note 3.

³⁴ See supra note 13.

³⁵ Supra note 13 at 3.

³⁶ See Rule 11.23 of Bats BZX Exchange et eq..

³⁷ See Delehanty Letter at 2. “The volume in the recent Gemini [Exchange Auction] seems (<https://gemini.com/auction-data/>) to be of reasonable size...”

³⁸ See supra note 3.

³⁹ See supra note 13.

based Bitcoin Exchanges by 0.12% on average and 0.52% at most.”⁴⁰ This trend has continued, with the average deviation remaining approximately 0.12% through November 18, 2016.⁴¹

6. The Exchange asserts that the widespread availability of information regarding Bitcoin, the Trust, and the Shares, combined with the ability of Authorized Participants to create and redeem Baskets each Business Day, thereby utilizing the arbitrage mechanism, will be sufficient for market participants to value and trade the Shares in a manner that will not lead to significant deviations between intraday Best Bid/Best Ask and the Intraday Indicative Value or between the Best Bid/Best Ask and the NAV. In addition, the Exchange asserts that the numerous options for buying and selling bitcoins will both provide Authorized Participants with many options for hedging their positions and provide market participants generally with potential arbitrage opportunities, further strengthening the arbitrage mechanism as it relates to the Shares. What are commenters’ views regarding these statements? Do commenters’ agree or disagree with the assertion that Authorized Participants and other market makers will be able to make efficient and liquid markets in the Shares at prices generally in line with the NAV? What are commenters’ views on whether the relationship between the Gemini Exchange and the Trust’s Sponsor and Custodian might affect the arbitrage mechanism?

All intraday order book and trade information on the Gemini Exchange is publicly available through various electronic formats. This data is also redistributed by various online aggregators. Moreover, with the launch of the proposed Trust, the Sponsor is obligated to make important pricing data available in real time, as outlined in the most recent amendment to the Proposal:

The [Trust’s] website will feature additional quantitative information for the Shares updated every 15 seconds throughout the Exchange’s Regular Trading Session, including the prior Business Day’s reported NAV, the Trust’s Intraday Indicative Value or IIV (as defined below), the national best bid for the Trust’s Shares (“NBB”), the national best offer for the Trust’s Shares (“NBO”), the midpoint of the NBB and the NBO, and the discount or premium of this midpoint from the IIV.⁴²

As noted above, the Gemini Exchange Auction typically already transacts a volume greater than the proposed creation basket size for the Trust, and would likely support the needs of APs to engage in basket creation or redemption. The global bitcoin marketplace has the potential to provide even more liquidity and be a source of APs’ bitcoin for basket creation and hedging.

The Sponsor has asserted that it will only use the Gemini Exchange Auction to convert its bitcoin-denominated fee to U.S. dollars to cover expenses and will generally not engage in other trading of shares of the Trust or of bitcoin. The converted Sponsor’s Fee should be a relatively

⁴⁰ Supra note 13 at 53.

⁴¹ Analysis of prices across U.S.-based bitcoin exchanges at 4:00 pm Eastern Time on Business Days based on publicly available data.

⁴² Supra note 3 at 67.

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small quantity of assets compared to the daily trading activity of the Trust or even the daily AP basket creation and redemption activity, and as such should have very little influence on the Gemini Exchange Auction Price and the overall global bitcoin market.

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Bats appreciates the opportunity to address the public comments on the Proposal. As discussed above, Bats believes the proposed Trust offers a robust and carefully designed implementation of an investment vehicle which allows exposure to the bitcoin asset class and is suitable for the general public. Bats would welcome the opportunity to provide the Commission with any additional information that it might find useful or to further discuss any of the issues raised herein.

Sincerely,



Kyle Murray
Assistant General Counsel