



November 22, 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. 79103, File No. SR-BatsBZX-2016-60 (the
“Proposal”)**

Dear Mr. Fields:

Bats BZX Exchange, Inc. (“Bats” or the “Exchange”) appreciates the opportunity to comment on the Proposal. Prior to being suspended by the Securities and Exchange Commission (the “Commission”), the Proposal established the LMM Partnership Program on the Exchange on October 3, 2016, after being filed by the Exchange on September 29, 2016. The notice from the Commission to solicit comments, temporarily suspend the Proposal, and institute proceedings to determine whether to approve or disapprove the Proposal (the “Notice”) was issued on October 14, 2016 and published in the Federal Register on October 20, 2016. The Exchange submits this comment letter in support of the Proposal and to address the issues raised by the Commission in the Notice.

Background and Issues Raised by the Commission

Under the LMM Partnership Program, an LMM in certain exchange-traded products (“ETPs”) would receive a payment of \$3,000 or more annually (an “LMM Payment”) where the consolidated average daily volume (“CADV”) in the ETP is greater than 1,000,000 shares. As the CADV for an ETP increases, so too would the annual payment, with a total of six different tiers based on the CADV of the ETP with the highest possible payment of \$400,000 annually being paid to an LMM in a product with a CADV of greater than 35,000,000 shares. Please refer to the Proposal for additional detail about the LMM Partnership Program.

In the Notice, the Commission stated the following:

The Commission believes there are questions as to whether the Exchange has adequately explained why it is consistent with the Act to make substantial additional payments to LMMs in the most-liquid ETFs—where performance incentives would seem least necessary to maintain market quality—without the imposition of any additional performance standards. While the Exchange asserts that the LMM Partnership Program may incent market makers to become LMMs in newly listed Funds, the Commission does not believe it is clear how higher payments to LMMs in the most-liquid ETFs will encourage them to become

LMMs in less-liquid ETFs, particularly given that the LMM Partnership Program does not obligate participants to become LMMs in any less-liquid ETFs or impose additional performance standards on them. As a result, the connection between the proposed LMM incentives and the desired LMM behavior appears indirect and tenuous.

The Commission also requested that “commenters address the sufficiency and merit of the Exchange’s statements in support of the proposal.” As of the submission of this comment letter, there were no other comments on the Proposal.

Exchange Response to Issues Raised by the Commission

As noted in the Proposal, the LMM Partnership Program is designed to create a more equitable allocation of the revenue generated from ETP listings among the three parties that play an integral role in bringing a successful ETP to market – the issuer, the exchange, and the LMM. In the current ETP listing environment, LMMs often take on significant financial exposure in order to facilitate the launch of new ETPs. While the ETP industry has rapidly expanded and more and more ETPs have come to market, the universe of LMMs has remained relatively static. This has created a situation in which there is a growing need for financial support for ETPs, but the same limited number of LMMs to meet this expanding demand and the current compensation model for LMMs cannot support this expansion. As such, Bats has proposed to implement the LMM Partnership Program to recalibrate the compensation model for LMMs in a manner that it believes is more equitable given an LMM’s important and changing role in bringing successful ETPs to market. While there are no additional requirements that an LMM must meet to receive the LMM Payment, the Exchange believes that the LMM Partnership Program would without question incentivize firms to register as LMMs in Bats-listed ETPs prior to listing on the Exchange in order to secure the right to receive the LMM Payment if and when those ETPs qualify for the LMM Partnership Program. While there is no guarantee that any particular ETP is going to qualify to receive an LMM Payment, some percentage of new Bats-listed ETPs will inevitably reach the CADV necessary to receive an LMM Payment, which changes the expected economic outcome for a potential LMM and will incentivize firms to act as LMM in Bats-listed ETPs. Stated another way, knowing that at least some subset of new ETPs will qualify for an LMM Payment will positively impact the expected economics associated with acting as an LMM in any Bats-listed ETP. The Exchange believes that such improved economics will create increased demand to act as an LMM for Bats-listed ETPs, which will increase competition to be an LMM among such firms in Bats-listed ETPs. Such enhanced competition for LMMs ultimately benefits all issuers on the Exchange and will act to enhance the Exchange’s standing as a listing venue.

Bats notes that the Commission highlighted in the Notice its skepticism about “how higher payments to LMMs in the most-liquid ETFs will encourage them to become LMMs in less-liquid ETFs.” The Exchange takes issue with this statement for two reasons. First, the Exchange did not assert that it is the actual LMM Payment to a firm that induces that same firm to act as an LMM in other Bats-listed ETPs. Rather, the Exchange believes that the possibility of receiving an LMM Payment, as described above, is what incentivizes firms to seek to be an

LMM in Bats-listed ETPs. Second, the LMM Partnership Program is focused on incentivizing firms to seek to be an LMM in new Bats-listed ETPs before such ETPs have begun trading on the Exchange and not necessarily in ETPs already listed on the Exchange. As noted in the Proposal, there is relatively low turnover in LMMs and all ETPs listed on Bats currently have an LMM, so the LMM Partnership Program was designed to incentivize firms to seek to be an LMM in new Bats-listed ETPs rather than where an already listed and trading “less-liquid” ETP is without an LMM.

Based on the foregoing, Bats believes that the incentives provided under the LMM Partnership Program are directly related to the behavior that the Exchange is trying to induce. Further, for these reasons and those listed in the Proposal, the Exchange believes that the Proposal is consistent with each of 6(b)(4), 6(b)(5), and 6(b)(8) of the Act.

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Bats appreciates the opportunity to comment on and supplement the arguments set forth in the Proposal. As discussed above, Bats believes that the LMM Partnership Program is consistent with the Act and that the incentives provided under the LMM Partnership Program are directly related to the behavior that the Exchange is trying to induce. 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