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August 17, 2017

Brent J. Fields, Esq.
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 25049

Re: SR-BATSBZX-2017-34

Dear Mr. Fields:

GTS Securities LLC (“GTS”), a global electronic market making firm which provides liquidity in U.S. cash equities, ETFs, futures, foreign exchange and government debt and is a designated market maker (“DMM”) on the New York Stock Exchange (“NYSE”), appreciates the opportunity to respond to comments submitted on the above-referenced proposed rule change by Bats BZX Exchange, Inc. (“BZX”).¹ BZX seeks approval to adopt an alternative closing process (called the “Bats Market Close”) pursuant to which market on close orders (“MOC”) would be matched on BZX at the official closing price of the primary listing markets of the NYSE and Nasdaq. GTS strongly opposes the BZX proposal. The U.S. capital markets are the envy of the world, and the integrity and reliability of our markets are of paramount importance to the health of the U.S. economy. We believe that the Bats Market Close would undermine the critical closing auction process to the detriment of the country’s capital markets and to the detriment of the issuers and investing public that our capital markets are meant to serve.

The Commission Should Respect the Input of Listed Companies

Facilitating capital formation is a core mission of the Securities and Exchange Commission (the “Commission” or “SEC”), and the public companies that depend upon our markets for purposes of capital formation have made their opinions about the BZX proposal known. Although it is virtually unprecedented for public companies to comment on a seemingly arcane market structure rule proposal, dozens of public companies have submitted comments to the Commission on the BZX proposal. Their viewpoint is unanimous and clear – they trust and rely upon the closing auctions operated by the primary listing exchanges and do not want those auctions jeopardized by the Bats Market Close.²

¹ See Letter to Brent J. Fields, Secretary, Sec. & Exch. Comm’n, from Joanne Moffic-Silver, Executive Vice President, General Counsel and Corporate Secretary, Bats Global Markets, Inc., dated August 2, 2017.

² Letter to Jay Clayton, Chairman, Sec. & Exch. Comm’n, from M. Farooq Kathwari, Chairman, President and Chief Executive Officer, Ethan Allen Interiors Inc., dated July 24, 2017; Letters to Brent J. Fields, Secretary, Sec. & Exch. Comm’n, from Steve Paladino, Executive Vice President and Chief Financial Officer, Henry Schein, Inc., dated Aug. 16, 2017; Raiford Garrabrant, Director, Investor Relations, Cree, Inc., dated Aug. 15, 2017; William A. Backus, Chief Financial Officer and Treasurer, Balchem

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Remarkably, in its response, BZX entirely dismisses the views of these public companies, offhandedly rejecting their comments as form letters concocted by NYSE and its DMMs. It is an affront to suggest, as BZX does, that these companies (such as Proctor & Gamble, which has been publically listed on the NYSE since 1891, has over one hundred thousand employees, and has a market capitalization of \$231 billion) would glibly submit a comment letter to the SEC just because someone asked them to. These companies have taken the time to go on the record and contribute their viewpoints on this critical issue. BZX has ignored these public companies (and their millions of investors and employees), opting instead to slight them and ignore their views. Regardless of the form or format of their letters, these public companies clearly do not want the closing auction process changed. If anything, the uniform and clear response of these public companies speaks to how resolute they are in their opposition. We encourage the Commission to take seriously the views of these public companies and not treat the opinions of this important constituency so cavalierly.

As Commission Chairman Clayton has noted, more and more companies are opting to remain privately held, which is a trend that must be changed for the good of our economy:

[T]he reduction in the number of U.S.-listed public companies is a serious issue for our markets and the country more generally. To the extent companies are eschewing our public markets, the vast majority of Main Street investors will be unable to participate in their growth. The potential lasting effects of such an outcome to the economy and society are, in two words, not good.³

If the Commission seeks to incentivize companies to participate in our capital markets, ignoring the view of public companies is not a good place to start. Companies that have chosen to go public and have come to rely upon the diligent efforts of their primary listing markets to create, support and maintain a reliable closing auction process, should not have the reliability and integrity of that process undermined against their wishes, in favor of a proposal that would benefit only intermediaries. It is critical that our capital markets are structured to serve the interests of the companies that rely upon them to raise capital and to encourage more companies to participate in the markets. The Bats Market Close, unfortunately, would have the opposite effect.

Corporation, dated Aug. 15, 2017; Barry Zwarenstein, Chief Financial Officer, Five9, Inc., dated Aug. 11, 2017; Micheal J. Chewens, Senior Executive Vice President and Chief Financial Officer, NBT Bancorp Inc., dated Aug. 11, 2017; Charles Beck, Chief Financial Officer, Digimarc Corporation, dated Aug. 3, 2017; Peter Campbell, Chief Financial Officer, Mimecast Limited, dated Jul. 31, 2017; Jon P. Stonehouse, Chief Executive Officer, and Thomas R. Staab II, Chief Financial Officer, BioCryst Pharmaceuticals, Inc., dated July 31, 2017; Jeff Green, Founder, Chief Executive Officer and Chairman of the Board of Directors, The Trade Desk Inc., dated July 26, 2017; John L. Killea, Chief Legal Officer, Stewart Information Services, dated July 19, 2017; Mickey Foster, Staff Vice President, Investor Relations, FedEx Corporation, dated July 14, 2017; Sally J. Curley, Senior Vice President, Investor Relations, Cardinal Health, Inc., dated July 14, 2017; Rob Bernshteyn, Chief Executive Officer, Chairman of the Board of Directors, Coupa Software Inc., dated July 12, 2017; Jon R. Moeller, Vice Chair and Chief Financial Officer, and Deborah J. Majoras, Vice Chair and Chief Financial Officer, The Procter & Gamble Company, dated July 12, 2017; Mark A. Stegeman, Senior Vice President and Chief Financial Officer, Turning Point Brands, Inc., dated July 12, 2017; David L. Dragics, Senior Vice President, Investor Relations, CACI International Inc., dated July 7, 2017; Cole Stevens, Investor Relations Associate, Nobilis Health, dated July 6, 2017; Daniel S. Tucker, Senior Vice President and Treasurer, Southern Company, dated July 5, 2017; Robert F. McCadden, Executive Vice President and Chief Financial Officer, Pennsylvania Real Estate Investment Trust, dated June 29, 2017; Steven C. Lilly, Chief Financial Officer, Triangle Capital Corporation, dated June 29, 2017; Sherri Brillon, Executive Vice-President and Chief Financial Officer, Encana Corporation, dated June 29, 2017; Kieran O'Sullivan, Chairman, President and Chief Executive Officer, CTS Corporation, dated June 28, 2017; Joanne Freiburger, Vice President, Treasurer, Masonite International Corporation, dated June 27, 2017; David B. Griffith, Investor Relations Manager, Orion Group Holdings, Inc., dated June 27, 2017; Jay S. Sidhu, Chairman, Chief Executive Officer, Customers Bancorp, Inc., dated June 27, 2017.

³ See Jay Clayton, Chairman, Sec. & Exch. Comm'n, Remarks at the Economic Club of New York (July 12, 2017).

GTS' Opposition to the BZX Proposal Is Not Directly Economically Motived

BZX contends that GTS and other DMMs are opposed to the Bats Market Close proposal because it would mean less revenue for DMMs, stating that “NYSE closing auctions are one of the most profitable times of day for the DMM.” BZX offers no support for this assertion and, in fact, it is simply wrong. For example, the NYSE closing auction process conducted by our DMM unit generates only a tiny fraction of GTS’ revenues.

Additionally, notwithstanding BZX’s suggestion to the contrary, we believe that the Bats Market Close ultimately would result in lower fees that GTS would pay to NYSE, and therefore that GTS would see an increase in profit margins should the proposal be approved. Accordingly, BZX’s suggestion that the comments of GTS and other DMMs should be ignored because they are motivated by short-term economic considerations holds no water. Instead, our opposition to the BZX proposal, as expressed in our original comment letter⁴ and in this letter, is a reflection of our strongly held belief that, in the long run, all market participants – issuers, investors, and intermediaries alike – are best served by strong, reliant, trustworthy markets, and that the BZX proposal is contrary to those interests and serves only the short-term interests of market intermediaries. Accordingly, we would encourage BZX to put the interest of public companies and their investors above BZX’s *own* self-interest in this matter.

Adoption of the Bats Market Close Would Disrupt and Impede Price Discovery

DMMs are obligated to assist in the maintenance of a fair and orderly market with respect to the securities they cover. As a part of this obligation, NYSE Rule 104(a)(3) requires the DMM to facilitate the close of trading for each of the securities in which the DMM is registered, which includes supplying liquidity as needed. This is a mission-critical function of the DMM. The closing price set by the primary exchange is the most important trade of the day for publicly listed companies and is relied upon by market participants far and wide – ETFs, mutual funds, parties to derivative transactions, equity compensation plans, and many others depend upon the closing price each and every day.⁵ Decentralization of the closing interest would put the integrity of that closing price at risk. BZX contends otherwise, arguing that the Bats Market Close would match only MOC orders and that matched MOC orders “are recipients of price formation, but do not contribute to the price formation process.” However, this contention does not hold up to scrutiny.

In order to provide a fair, accurate, and orderly close, GTS’ trading algorithms and floor personnel take into consideration a wide variety of inputs, including historical trading volumes at various price levels, proprietary indications of the fair value of a given security derived from GTS quantitative research, and the number of matched shares in the book for the security in question which occur both from direct participants and from the floor brokerage community.

Both the size of those matched shares and the time those matched shares are consumed by each individual book are essential data points for consideration in pricing the final closing auction. This includes the number of matched orders and the order type (limit and market). This information is available because trading participants

⁴ See Letter to Brent J. Fields, Secretary, Sec. & Exch. Comm’n, from Ari Rubenstein, Co-Founder and Chief Executive Officer, GTS Securities LLC, dated June 22, 2017.

⁵ For this reason, every trading day, without fail, listed companies contact us seeking an explanation and summary of the closing price and the relevant details surrounding that day’s closing auction, particularly with respect to any volatility between the final trades of the day and the final closing price.

send their order flows to NYSE. Once those flows are scattered among numerous venues, this essential data will be lost.⁶ We urge the Commission not to strip from DMMs and all market participants this irreplaceable information. Simply put – if the inputs available to market participants to price the close change (i.e., because closing interest will be scattered among various venues), the price of the close will change and become less reliable. When GTS purchased the DMM business several years ago, I personally sent letters to over 900 public companies committing myself and my firm to being the best DMM we could be. Today, GTS remains fully committed to providing a robust, transparent, and accurate closing price every day. However, if critical closing interest is fragmented among multiple exchanges, our ability to do so – and to fulfill our commitment to the public companies we serve – will be substantially hindered.

We also note that important information provided by floor brokers to their clients for price discovery purposes will be lost if closing interest is fragmented among exchanges.⁷ Customers rely on floor brokers to provide information throughout the trading day concerning market interest in relevant securities, including closing interest. Dispersing closing interest among a larger pool of exchanges will result in a diluted pool of information for floor brokers to share with their customers, and thereby impede the price discovery process for those customers.⁸

BZX argues that since some NYSE members are aggregating closing interest, BZX should be allowed to do so too. This is not a reason, it is an excuse. In any event, we are very concerned about this trend and the extent to which it has impacted the close. We recommend that the SEC conduct a thorough study of this practice and how it might be affecting the closing auction, and believe that the SEC should not approve the BZX proposal without doing so. It should be kept in mind that this practice has only proliferated in a low volatility environment where price displacement on the close is low and customers likely would not be aware of changes to price discovery. But what will happen when activity in the markets intensifies from these record low levels? We are worried that intermediaries, chasing margin during a period of low volatility, are changing a critical process in our marketplace and that the true impact of this change will be amplified when volatility increases. The increasing trend of intermediaries aggregating closing interest, particularly if coupled with the Bats Market Close and other competing closing processes that would follow, will put even more stress on the closing auction process at the primary listing exchange, while at the same time depriving the DMM of more and more content that is critical to the DMM's ability to price the close.

⁶ There is little doubt that should the Commission approve the Bats Market Close, other exchanges will follow suit and will seek approval to adopt their own closing auction processes. The result would be substantial fragmentation of closing interest across exchanges and a significant reduction in relevant data available to DMMs charged with managing the close.

⁷ Today, the number of shares executed by the floor on the close is approximately 120 million shares per day, which amounts to over 30% of all the closing interest.

⁸ BZX may claim that customers can decide for themselves whether this information is valuable and if they believe it is, will keep sending their order to floor brokers at NYSE. Such an argument, however, is flawed. Because the pool of information available to floor brokers will be diluted as the result of fragmentation of the closing auction process, that information will necessarily become less useful. The less useful that information is, the more likely customers are to send order flow away from the NYSE floor, further reducing the usefulness of the floor brokers' market information, which in turn will further incentivize the routing of order flow elsewhere. Ultimately, therefore, the valuable information floor brokers are able to provide to their customers to facilitate price discovery will be substantially diminished if not lost entirely, and customers will have less options not more.

Fragmentation of the Closing Process Invites Manipulation and Will Increase Surveillance Costs

In their comment letters, both NYSE and Nasdaq persuasively argued that asymmetry between the information that would be disseminated by BZX in connection with the Bats Market Close and the information disseminated by the primary listing exchanges would provide fertile grounds for those seeking to manipulate the closing price. BZX brushes off this concern, contending only that it, FINRA and others will continue to surveil for, and punish, manipulative conduct. We submit that the Commission, in keeping with its mission to protect investors and maintain fair, orderly and efficient markets, should not casually dismiss this concern as BZX has.

Closing auction and other price-fixing scandals have disrupted markets, defrauded investors and other market participants, and shaken public confidence time after time. The LIBOR and Forex scandals in recent years are just two examples. Because the Bats Market Close (and the copycat processes sure to be adopted by other exchanges) would entice those with nefarious intent, we are deeply concerned that U.S. public companies will be impacted by high-profile enforcement cases arising out of the defrauding of their investors during the closing process. This proposal, if accepted, would use our public companies as guinea pigs in a vast market structure experiment that will benefit only Wall Street intermediaries and provide no clear benefit to investors, listed companies, or the markets in general.

To prevent the manipulation that we (and others) believe would be invited by the BZX proposal, regulators and brokers would need to invest heavily in compliance tools to monitor coordinated closing interest between many trading venues, a complication that does not exist today. The costs of such investment and effort should be closely considered in evaluating the BZX proposal, but have been entirely ignored by BZX.

Finally, we note that at the NYSE, DMMs and floor brokers serve a valuable oversight function in connection with the closing auction process. Disruptive and manipulative trading activity for a high profile trading singularity like the closing auction, is much more difficult to conceal in an open outcry system and is aggressively shunned on the NYSE floor. GTS has been a DMM for a little under two years and in this short time I have been extremely impressed by the level of professionalism, experience and dedication witnessed on the NYSE floor. DMMs and floor brokers understand the importance of an accurate and reliable close to their reputations, their customers, and to the markets more broadly. This natural oversight will largely be lost if the closing auction process is fragmented among various exchanges.

An Alternative Approach

There is little question that the market structure initiatives implemented over the last few decades have sparked competition and resulted in pricing efficiencies. But the closing auction is a different animal, and just because decentralization and competition have strengthened our markets in other contexts does not mean that the same will hold true in this context. To the contrary, the close is the most critical trade of the day and in this context, centralization via the gathering of all relevant information in one place (i.e., the primary listing market) supports the integrity of the closing price.

We strongly believe that approval of the Bats Market Close and the all-but-certain alternative closing auction functions that other exchanges would adopt would disrupt the closing auction process by impeding price discovery and inviting manipulation, and would thereby further hamper capital formation and increase surveillance costs. And all for what? Ultimately the only beneficiaries of the BZX proposal are Wall Street intermediaries that will see a reduction in the price they pay for closing transactions.

Brent J. Fields, Esq.

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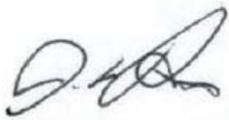
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We think there is a better way. I have spent a tremendous amount of time personally speaking to various market participants about this issue and have found an immense common ground among us. Most participants, including those supportive of the BZX proposal, agree that a centralized close is what is best for the long-term health of our markets. But there is concern among many market participants that the primary listing exchanges have too much pricing power relative to the closing auction. GTS suggests that if market participants believe that exchange cost inefficiencies exist at the close, regulatory checks on such pricing (such as fee caps) could be put into place. Such a solution would help to ensure fair and efficient pricing without putting the critical closing auction process at risk.

Conclusion

We believe that the consideration of this proposal is a seminal moment in the history of U.S. market structure. The SEC is faced with a difficult but extremely important decision to make. GTS respectfully submits that the BZX proposal asks the Commission to ignore the wants and needs of the very public companies that our market structure is meant to support, embrace a market structure that serves only intermediaries, and risk substantial dilution and disruption of the critical closing process upon which investors and our public companies depend. We urge the Commission to honor Chair Clayton's vocal support for policies that increase the attractiveness of our public capital markets, encourage capital formation, and promote investment opportunities for investors, by rejecting the BZX proposal.

Sincerely,



Ari M. Rubenstein
Co-Founder and Chief Executive Officer
GTS

cc: Jay Clayton, Chairman, U.S. Securities and Exchange Commission
Michael S. Piwowar, Commissioner, U.S. Securities and Exchange Commission
Kara M. Stein, Commissioner, U.S. Securities and Exchange Commission