



September 12, 2016

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

**RE: SR-NYSE-2016-62, SR-NYSEMKT-2016-83, SR-NYSEArca-2016-123, SR-Nasdaq-2016-126, SR-BX-2016-050, and SR-Phlx-2016-92**

Dear Mr. Fields:

Bats Global Markets, Inc. (“Bats”) appreciates the opportunity to comment on the above-referenced proposed rule changes in which the New York Stock Exchange, Inc. (“NYSE”), NYSE Arca, Inc. (“NYSE Arca”), NYSE MKT LLC (“NYSE MKT”), Nasdaq Stock Market LLC, Nasdaq BX, Inc. (“BX”); and NASDAQ PHLX LLC (“PHLX”, together with NYSE, NYSE Arca, NYSE MKT, NASDAQ, and BX, the “NYSE and NASDAQ Markets”) propose to amend their respective rules to describe system functionality changes necessary to implement the Regulation NMS Plan to Implement a Tick Size Pilot Program (“Plan” or “Pilot”).<sup>1</sup> For the reasons set forth below, Bats supports the proposed rule changes and urges the Commission to approve them as proposed.

The Securities Exchange Commission (“Commission”) recently approved proposed rule changes by Bats BYX Exchange, Inc. (“BYX”), Bats BZX Exchange, Inc. (“BZX”), Bats EDGA Exchange, Inc. (“EDGA”), and Bats EDGX Exchange, Inc. (“EDGX”) amending their rules to describe system and functionality changes necessary to implement the Pilot.<sup>2</sup> Bats initially proposed to eliminate certain order types only in Test Group Three because of their inability to execute under the Trade-At Prohibition. When publishing the Bats’ filings for public comment, the Commission Staff expressed concern that the proposed rule changes to eliminate certain order types in Test Group Three only could “have a disparate impact on different Test Groups and the Control Group” and “could bias the results of the Pilot and undermine the value of the data generated in informing future policy decisions”. Bats submitted a comment letter on its own filing to respond to the Commission Staff’s concerns.<sup>3</sup> Based on subsequent discussions with the

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<sup>1</sup> See Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015) (“Approval Order”).

<sup>2</sup> See Securities Exchange Act Release Nos. 78766 (September 2, 2016) (SR-BatsBYX-2016-17); 78765 (September 2, 2016) (SR-BatsBZX-2016-29); 78763 (September 2, 2016) (SR-BatsEDGA-2016-15); and 78767 (September 2, 2016) (SR-BatsEDGX-2016-26) (the “Approval Orders”). See also Securities Exchange Act Release Nos. 78333 (July 14, 2016) (SR-BatsBYX-2016-17); 78334 (July 14, 2016) (SR-BatsBZX-2016-29); 78330 (July 14, 2016) (SR-BatsEDGA-2016-15); and 78331 (July 14, 2016) (SR-BatsEDGX-2016-26) (the “Releases”).

<sup>3</sup> See letter to Brent J. Fields, Secretary, Commission, from Eric Swanson, General Counsel, Bats, dated July 26, 2016.

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Commission Staff, Bats ultimately amended the filings to expand the proposed changes to apply to all Pilot Securities so that the proposals may be approved by the Commission in a timely manner and to ensure adequate time for industry testing in advance of the Pilot's October 3, 2016 implementation date.<sup>4</sup>

Despite amending the filings and the Commission's approval, Bats continues to question the Commission Staff's authority to dictate the order types an exchange can choose to offer or discontinue if such proposal otherwise complies with the Exchange Act. Based on the nature of the changes proposed by the NYSE and NASDAQ Markets, Bats believes the Commission Staff is likely expressing similar concerns to the NYSE and Nasdaq Markets and submits this letter in support of the proposed rule changes. Section IV of the Plan simply requires the Exchange to adopt procedures that are reasonably designed to comply with the requirement of the Plan, as Bats believes the NYSE and NASDAQ Markets' proposals are clearly intended to do. Bats agrees with the NYSE and NASDAQ Markets' proposed changes to order type behavior for Pilot Securities in Test Group Three would remove impediments to and perfect the mechanism of a free and open market and a national market system because they are necessary to modify behavior to comply with the Trade-At Prohibition in Test Group Three. Bats also agrees with the NYSE and NASDAQ Markets that the proposed rule changes will reduce system complexity while not adversely affecting the data collected under the Plan. Requiring exchanges to eliminate order types that are inconsistent with the Trade-at requirement across all Pilot Securities may diminish data integrity because any data collected under such circumstances would not reflect market responses to the new rules in each Test Group in the Pilot, but rather, would assess artificially constrained data from exchanges and real-world data from non-exchange trading centers who made modifications to comply with the Pilot and are not subject to the same constraints as exchanges.

Bats supports the Pilot and its goal of assisting the Commission, market participants, and the public in studying and assessing the impact of different quoting and trading increments on the liquidity and trading of stocks of small capitalization companies. Bats appreciates the opportunity to comment on the above proposed rule changes and urges the Commission to approve them as proposed. Please feel free to contact me if you have any questions related this matter.

Sincerely,



Eric Swanson  
EVP, General Counsel and Secretary

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<sup>4</sup> Bats understands that the Commission Staff's view regarding the types of functionality changes exchanges may make to comply with the Pilot is recently evolving and that the absence of a firm view by the Commission at this late date jeopardizes the integrity of the scheduled industry-wide test dates.