

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-81070; File No. SR-BatsBZX-2017-26)

June 30, 2017

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Order Approving a Proposed Rule Change, to Amend BZX Rule 14.11 to Provide for the Inclusion of Cash in an Index Underlying a Series of Index Fund Shares

I. Introduction

On May 12, 2017, Bats BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”)² and Rule 19b-4 thereunder,³ a proposed rule change to amend BZX Rule 14.11 to provide for the inclusion of cash in an index underlying a series of Index Fund Shares. The proposed rule change was published for comment in the Federal Register on May 25, 2017.⁴ The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

BZX Rules 14.11(c)(3) and 14.11(c)(4) permit the Exchange to generically list Index Fund Shares (“Shares”) that overlie an index or portfolio of U.S. Component Stocks,⁵ Non-U.S.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ See Securities Exchange Act Release No. 80728 (May 19, 2017), 82 FR 24171 (“Notice”).

⁵ “U.S. Component Stock” is defined in BZX Rule 14.11(c)(1)(D) as an equity security that is registered under Sections 12(b) or 12(g) of the Act, or an American Depositary Receipt, the underlying equity security of which is registered under Sections 12(b) or 12(g) of the Act.

Component Stocks,⁶ U.S. Component Stocks and Non-U.S. Component Stocks, and Fixed Income Securities⁷ that meets specified criteria. Although open-end investment management companies may hold cash, currently, the generic listing criteria of BZX Rules 14.11(c) do not contemplate the generic listing of Shares overlying an index or portfolio with a cash component.

The Exchange proposes to amend BZX Rules 14.11(c)(3) and 14.11(c)(4) to permit the generic listing and trading of Shares overlying an index or portfolio of cash and: (1) U.S. Component Stocks; (2) Non-U.S. Component Stocks; (3) U.S. Component Stocks and Non-U.S. Component Stocks; and (4) Fixed Income Securities. The Exchange is not proposing to otherwise amend the applicable generic listing criteria, except to specify that the following generic listing criteria will not apply to the cash portion of the index or portfolio:

- Under proposed BZX Rule 14.11(c)(3)(A)(i)(a) through (d), the percentage weighting requirements would apply only to the U.S. Component Stocks portion of the underlying index or portfolio.
- Under proposed BZX Rule 14.11(c)(3)(A)(ii)(a) through (d), the percentage weighting requirements would not apply to the cash component of the underlying index or portfolio.

⁶ “Non-U.S. Component Stock” is defined in BZX Rule 14.11(c)(1)(E) as an equity security that (a) is not registered under Sections 12(b) or 12(g) of Act, (b) is issued by an entity that is not organized, domiciled or incorporated in the United States, and (c) is issued by an entity that is an operating company (including Real Estate Investment Trusts and income trusts, but excluding investment trusts, unit trusts, mutual funds, and derivatives).

⁷ BZX Rule 14.11(c)(4) defines Fixed Income Securities as debt securities that are notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities, government-sponsored entity securities, municipal securities, trust preferred securities, supranational debt and debt of a foreign country or a subdivision thereof.

- Under proposed BZX Rule 14.11(c)(4)(B)(i)(b), (d), and (f), the percentage weighting requirements would apply only to the Fixed Income Securities portion of the underlying index or portfolio.

The Exchange does not propose any limit to the weighting of cash in an index or portfolio underlying a series of Shares.⁸ The Commission notes that, under a provision of its current rule, the Exchange may generically list Shares overlying a combination of indexes so long as each index satisfies the generic listing criteria.⁹

III. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁰ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹¹ 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, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission believes that permitting the Exchange to generically list Shares that overlie an index or portfolio with a cash component may enhance competition among generically listed Shares, to the benefit of investors and the marketplace. Additionally, the Commission believes that the generic listing criteria referenced above, applicable only to the non-cash

⁸ See Notice, supra note 4, 82 FR at 24172.

⁹ See BZX Rule 14.11(c)(5).

¹⁰ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹¹ 15 U.S.C. 78f(b)(5).

portion(s) of the index or portfolio will neither dilute the generic listing criteria nor render the indexes or portfolios underlying generically listed Shares more susceptible to manipulation.¹² Lastly, the Commission notes that it recently approved a substantively similar proposal by another national securities exchange.¹³

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act¹⁴ and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Exchange Act,¹⁵ that the proposed rule change (SR-BatsBZX-2017-26) be, and it hereby is, approved.

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

Brent J. Fields
Secretary

¹² The Commission also notes that the Exchange represents that it has in place surveillance procedures that are adequate to properly monitor trading in Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. See Notice, supra note 4, 82 FR at 24172.

¹³ See Securities Exchange Act Release No. 80777 (May 25, 2017), 82 FR 25378 (June 1, 2017) (SR-NYSEArca-2017-30).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ 15 U.S.C. 78s(b)(2).

¹⁶ 17 CFR 200.30-3(a)(12).