

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-79053; File No. SR-BatsBZX-2016-35)

October 5, 2016

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1, 2, and 3, to List and Trade Shares of the JPMorgan Global Bond Opportunities ETF of the J.P. Morgan Exchange-Traded Fund Trust under BZX Rule 14.11(i), Managed Fund Shares

I. Introduction

On July 1, 2015, Bats BZX Exchange, Inc. (“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”)² and Rule 19b-4 thereunder,³ a proposed rule change to list and trade shares (“Shares”) of the JPMorgan Global Bond Opportunities ETF (“Fund”) of the J.P. Morgan Exchange-Traded Fund Trust (“Trust”) under BZX Rule 14.11(i). The proposed rule change was published for comment in the Federal Register on July 14, 2016.⁴ On August 18, 2016, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to October 12, 2016.⁵ On August 30, 2016, the Exchange filed Amendment No. 1 to the proposed rule change. On October 3, 2016, the Exchange filed Amendment No. 2 to the proposed rule change.⁶ On October 4, 2016, the

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. 78264 (July 8, 2016), 81 FR 45546 (“Notice”).

⁵ See Securities Exchange Act Release No. 78613 (August 18, 2016), 81 FR 57967 (August 24, 2016).

⁶ Amendment No. 2 replaced Amendment No. 1, which amended and replaced the original filing in its entirety. In Amendment No. 2, the Exchange: (1) clarified the Fund’s investments in instruments that provide exposure to countries other than the U.S.; (2)

Exchange filed Amendment No. 3 to the proposed rule change.⁷ The Commission received no comments on the proposed rule change. This order grants approval of the proposed rule change, as modified by Amendment Nos. 1, 2, and 3.

II. Description of the Proposal

The Exchange proposes to list and trade the Shares under BZX Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by the Trust. According to the Exchange, the Trust is registered with the Commission as an open-end investment company and has filed a registration statement with respect to the Fund on Form N-1A (“Registration Statement”) with the Commission.⁸

added the defined terms “Bonds” and “Non-Bonds” to describe and clarify some of the Fund’s investments; (3) provided additional detail regarding restrictions on the Fund’s investments in non-agency asset-backed securities; (4) clarified restrictions on the Fund’s investments in municipal securities; (5) provided additional clarity regarding the definition of private placements, restricted securities, and unregistered securities, as well as restrictions on such holdings; (6) provided additional description of restrictions on the Fund’s structured investments; (7) provided additional clarification regarding the types of derivatives and foreign currency transactions in which the Fund may invest; (8) provided additional detail regarding the Fund’s coverage of options; (9) provided additional detail regarding the commodity-related pooled investment vehicles that the Fund may hold; and (10) provided additional clarification regarding the Fund’s valuation of convertible securities, warrants and rights, and custodial receipts. Because the changes in Amendment No. 2 to the proposed rule change clarify certain statements in the proposal and do not materially alter the substance of the proposed rule change or raise any novel regulatory issues, it is not subject to notice and comment.

⁷ In Amendment No. 3, which partially amended Amendment No. 2 to the proposed rule change, the Exchange: (i) added a citation to a Commission Order in support of proposed restrictions on the Fund’s investments in municipal securities; and (ii) consolidated footnotes into a single footnote. Amendment No. 3 is not subject to notice and comment because it is a technical amendment that does not materially alter the substance of the proposed rule change or raise any novel regulatory issues.

⁸ See Registration Statement on Form N-1A for the Trust, dated May 26, 2016 (File Nos. 333-191837 and 811-22903). The Exchange states that the Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (“1940 Act”). See Investment Company Act Release No. 31990 (February 9, 2016) (File No. 812-13761).

J.P. Morgan Investment Management Inc. will be the investment adviser (“Adviser”) to the Fund. The Adviser will serve as the administrator for the Fund. SEI Investments Distribution Co. serves as the distributor for the Trust. JPMorgan Chase Bank, N.A. will act as the custodian and transfer agent for the Trust. The Exchange states that the Adviser is not registered as a broker-dealer but that the Adviser is affiliated with a broker-dealer and has implemented a “fire wall” with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund’s portfolio.⁹ In the event (a) the Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.¹⁰

The Exchange has made the following representations and statements in describing the Funds.¹¹

Principal Investments for the Fund

The Fund will seek to provide total return by investing across sectors in developed and emerging markets located around the world. The Fund will be an actively-managed fund that

⁹ See Notice, supra note 4, 80 FR at 45547.

¹⁰ See id.

¹¹ The Commission notes that additional information regarding the Trust, the Funds, and the Shares, including investment strategies, risks, creation and redemption procedures, calculation of net asset value (“NAV”), fees, distributions, and taxes, among other things, can be found in the Notice, Amendment No. 2, and Registration Statement, as applicable. See Notice, supra note 4, Amendment No. 2, supra note 6, and Registration Statement, supra note 8.

does not seek to replicate the performance of a specified index. Because the Fund will not be managed to a benchmark, the Adviser will have broad discretion to shift the Fund's exposure to strategies, sectors, countries or currencies based on changing market conditions and its view of the best mix of investment opportunities. In buying and selling investments for the Fund, the Adviser will allocate the Fund's exposure to strategies, sectors, countries and currencies based on the Adviser's analysis of individual investments and broader economic conditions in individual countries, regions and the world. According to the Exchange, this will allow the Adviser to take a conservative approach during uncertain periods and move into higher risk opportunities as market conditions improve, which may result in the Fund focusing in only a few markets and sectors.¹²

The Fund may invest in instruments that provide exposure to developed or emerging markets. The Exchange states that emerging markets currently include most countries in the world except Australia, Canada, Japan, New Zealand, the U.S., the United Kingdom and most western European countries and Hong Kong.¹³ In managing the Fund, the Adviser will seek to diversify the Fund's portfolio by investing in instruments that provide exposure to at least three countries other than the U.S. The Fund may invest a substantial part of its assets in just one country and is not required to allocate its investments in any set percentages in any particular countries.

Although the Fund will have the flexibility to invest without limit in securities that are rated below investment grade (also known as junk bonds or high yield securities), or the unrated equivalent, the Fund generally will invest at least 25% of the Fund's assets in securities that at

¹² See Notice, supra note 4, 80 FR at 45547.

¹³ See id.

the time of purchase are rated investment grade or the unrated equivalent. The Fund will have flexibility to decrease the percentage of its assets invested in investment grade securities at any time to take advantage of higher risk opportunities when market conditions are improving.

The Fund currently seeks to maintain a duration of eight years or less, although the Fund will have the flexibility to maintain a longer duration under certain market conditions such as significant volatility in interest rates and spreads. As part of its principal investment strategy and for temporary defensive purposes, any portion of the Fund's total assets may be invested in cash and cash equivalents.

The Fund intends to achieve its investment objective by investing, under normal circumstances,¹⁴ at least 80% of its net assets (plus the amount of borrowings for investment purposes) ("Assets") in bonds (a debt security with a maturity of 90 days or more at the time of its issuance) ("Bonds") and Non-Bonds, as defined below, subject to certain limits described below. The Exchange defines Bonds as the following instruments: asset-backed securities¹⁵ (including mortgages, mortgage dollar rolls, and stripped mortgage-backed securities); bank obligations; commercial paper; convertible bonds; corporate debt securities;¹⁶ inflation-linked

¹⁴ The term "under normal circumstances" includes, but is not limited to, the absence of extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

¹⁵ The Exchange represents that the Fund will not invest more than 20% of the Fund's total assets in non-agency ABS. See Notice, supra note 4, 80 FR at 45547, and Amendment No. 2, supra note 6.

¹⁶ According to the Exchange, although the Fund is permitted to invest without restriction in corporate bonds, the Adviser expects that, under normal circumstances, the Fund will generally seek to invest in corporate bond issuances that have at least \$100,000,000 par amount outstanding. The Exchange represents that component corporate bonds that in the aggregate account for at least 75% of the weight of corporate bonds will have a minimum

debt securities; inverse floating rate instruments; municipal securities;¹⁷ obligations of supranational agencies; private placements, restricted securities, and other unregistered securities;¹⁸ securities issued in connection with reorganizations and corporate restructurings;

original principal outstanding of \$100 million or more.

¹⁷ The Exchange states that municipal securities held by the Fund will be rated Baa3/BBB- or higher by at least two of the following ratings agencies if all three agencies rate the security: Moody's, S&P and Fitch. If only two of the three agencies rate the security, the lower rating will be used. If only one of the three agencies rates a security, the rating must be at least Baa3/BBB-. The Exchange represents that municipal securities held by the Fund will have an outstanding par value of at least \$7 million and be issued as part of a transaction of at least \$75 million. The Exchange further represents that the Fund will not invest more than 20% of the Fund's total assets in municipal securities. See Notice, supra note 4, 80 FR at 45548 n.14, and Amendment No. 2, supra note 6.

¹⁸ According to the Exchange, private placement, restricted securities, and other unregistered securities include only the following: (1) commercial obligations issued in reliance on the so-called "private placement" exemption from registration afforded by Section 4(a)(2) under the Securities Act of 1933, as amended (the "Securities Act"); or (2) securities that are not registered under the Securities Act, but which can be offered and sold to "qualified institutional buyers" under Rule 144A under the Securities Act. The Exchange states that in the aggregate, the Fund may invest up to 20% of its total assets in the following instruments: (i) structured investments; and (ii) private placements, restricted securities, and other unregistered securities, although this 20% limitation does not apply to private placements, restricted securities, and other unregistered securities (collectively, "Unregistered Securities") that satisfy the generic fixed income listing requirements in BZX Rule 14.11(i)(4)(C)(ii)(d) (the "Fixed Income Rule") measured at the time of purchase. The Exchange represents that the only Unregistered Securities that will not be subject to the 20% limitation must be either: (a) from issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of \$700 million or more; (c) from issuers that have outstanding securities that are notes, bonds, debentures, or evidence of indebtedness having a total remaining principal amount of at least \$1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country. The Exchange states that if, subsequent to purchase by the Fund, an Unregistered Security that was previously not subject to this 20% limitation because it met the Fixed Income Rule at the time of purchase no longer meets the Fixed Income Rule, the Fund may continue to hold the Unregistered Security and the Unregistered Security will not cause the Fund to violate the 20% limitation. However, the Exchange represents that the Unregistered Security that no longer meets the Fixed Income Rule will be taken into account for purposes of determining whether purchases of additional structured investments and Unregistered Securities that do not

sovereign obligations; structured investments; treasury receipts; trust preferreds; U.S. Government Agency Securities; U.S. Government obligations; and zero-coupon, pay-in-kind, and deferred payment securities. Bonds may have fixed or variable interest rates and may be of any maturity.

The Fund may also invest in the following instruments as part of its principal investment strategy (“Non-Bonds”): custodial receipts; derivatives, including only options,¹⁹ swaps,²⁰ and futures;²¹ exchange traded funds (“ETFs”),²² foreign currency transactions;²³ investment company securities that are not ETFs; preferred stock; and short-term funding agreements.

meet the Fixed Income Rule will cause the Fund to violate such limitation. See Notice, supra note 4, 80 FR at 45548 and Amendment No. 2, supra note 6.

¹⁹ According to the Exchange, the Fund may invest in OTC and exchange-traded call and put options, including only the following: fixed income securities, currencies, futures, and indexes of fixed income, currencies, or credit default swaps. The Exchange states that the Fund will segregate an amount of cash, cash equivalents, or liquid securities sufficient to cover any obligations arising under the options as required under Section 18 of the 1940 Act. See Notice, supra note 4, 80 FR at 45548 n.22 and Amendment No. 2, supra note 6.

²⁰ The Exchange states that the Fund may invest in only the following types of swaps: interest rate swaps, credit default swaps, currency swaps, and total return swaps on equities, bonds, equity indexes, bond indexes, commodities, and commodity indexes. The Fund may also invest in swaptions based on any of the foregoing types of swaps. See Notice, supra note 4, 80 FR at 45548 n.23 and Amendment No. 2, supra note 6.

²¹ According to the Exchange, the Fund may invest in only the following types of futures: interest rate futures, bond futures, equity futures, currency futures, and commodity futures. See Amendment No. 2, supra note 6.

²² The Exchange represents that all ETFs in which the Fund invests will be listed and traded in the U.S. on registered exchanges. The Fund will not invest in inverse or leveraged (e.g., 2X, -2X, 3X or -3X) ETFs. See Notice, supra note 4, 80 FR at 45548 n.24.

²³ According to the Exchange, foreign currency transactions will be used to hedge against currency risks, for other risk management purposes, to increase income or gain to the Fund, and/or for other investment purposes and, in addition to the derivative strategies described above, may include only the following: spot and forward foreign currency transactions (including non-deliverable forwards and forward rate agreements). The Fund may engage in such transactions in both U.S. and non-U.S. markets. See Notice, supra note 4, 80 FR at 45548 n.25 and Amendment No. 2, supra note 6.

Other Portfolio Holdings

While the Adviser, under normal circumstances, will invest at least 80% of the Fund's Assets in Bonds and Non-Bonds, the Adviser may invest up to 20% of the Fund's Assets in other securities and financial instruments, as described below.

The Fund may invest in auction rate securities, which include auction rate municipal securities and auction rate preferred securities issued by closed-end investment companies.

The Fund may invest in Brady Bonds, which are securities created through the exchange of existing commercial bank loans to sovereign entities for new obligations in connection with a debt restructuring.

The Exchange states that the Fund may invest in commodity-related pooled investment vehicles, which include only the following instruments and their equivalent products on other national stock exchanges: Trust Issued Receipts (as defined in BZX Rule 14.11(f)); Commodity-Based Trust Shares (as defined in BZX Rule 14.11(e)(4)); Currency Trust Shares (as defined in BZX Rule 14.11(e)(5)); Commodity Index Trust Shares (as defined in BZX Rule 14.11(e)(6)); Trust Units (as defined in Rule BZX 14.11(e)(9)); and Paired Class Shares (as defined in NASDAQ Stock Market LLC Rule 5713).²⁴ The Fund will not invest in inverse or leveraged (e.g., 2X, -2X, 3X or -3X) commodity-related pooled investment vehicles.

The Fund may invest in U.S. equity securities. Equity securities are securities that represent an ownership interest (or the right to acquire such an interest) in a company and include common and preferred stock, warrants, and rights. The Fund's investments in such U.S. equity securities may include securities traded over-the-counter as well as those traded on a securities exchange. The Fund may purchase such securities on a forward commitment or when-

²⁴ See Notice, supra note 4, 80 FR at 45548 and Amendment No. 2, supra note 6.

issued or delayed delivery basis, which means delivery and payment take place a number of days after the date of the commitment to purchase. The Fund may invest in exchange-traded master limited partnerships (“MLPs”).

The Fund may purchase exchange-traded common stocks, exchange-traded warrants, and exchange-traded rights in foreign corporations. The Fund’s investments in common stock of foreign corporations may also be in the form of American Depositary Receipts (“ADRs”), Global Depositary Receipts and European Depositary Receipts (collectively “Depositary Receipts”).²⁵

The Fund may invest in convertible securities traded on an exchange or OTC that are not described in the Principal Holdings section above. Convertible securities are securities that may be converted or exchanged (by the holder or by the issuer) into shares of the underlying common stock (or cash or securities of equivalent value) at a stated exchange ratio. Convertible securities include contingent convertible securities.

The Fund may invest in loan assignments and participations, which are assignments of, or participations in, all or a portion of loans to corporations or to governments, including governments in less developed countries. The Fund may also invest in commitments to purchase loan assignments.

Investment Restrictions

The Fund may hold up to an aggregate amount of 15% of its Assets in illiquid assets (calculated at the time of investment), including restricted securities deemed illiquid by the Adviser under the 1940 Act. The Fund will monitor its portfolio liquidity on an ongoing basis to

²⁵ According to the Exchange, the Fund will not invest in unsponsored ADRs. The Exchange states that all exchange-traded equity securities in which the Fund may invest will trade on markets that are members of the Intermarket Surveillance Group (“ISG”) or that have entered into a comprehensive surveillance agreement with the Exchange. See Notice, supra note 4, 80 FR at 45548 n.28.

determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, Assets, or other circumstances, more than 15% of the Fund's Assets are held in illiquid assets. A security is considered illiquid if it cannot be sold or disposed of in the ordinary course of business within 7 days at approximately the value at which it is being carried by the Fund.

The Fund intends to qualify each year as a regulated investment company (a "RIC") under Subchapter M of the Internal Revenue Code of 1986, as amended. The Fund will invest its assets, and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification, and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M.

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.²⁶ In particular, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1, 2, and 3, is consistent with Section 6(b)(5) of the Exchange Act,²⁷ which requires, among other things, that the Exchange's rules be designed 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.

²⁶ 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).

²⁷ 15 U.S.C. 78f(b)(5).

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Exchange Act,²⁸ which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers and investors of information with respect to quotations for and transactions in securities. Quotation information from brokers and dealers or pricing services will be available for U.S. government obligations. Quotation and price information for Bonds, auction rate securities, when-issued securities, delayed delivery securities, and forward commitments, loan assignments and participations, Brady Bonds, mortgages, common stock warrants and rights, CDS, and foreign currency transactions will be available via major market data vendors or broker dealers that make markets in such instruments. Quotation and last sale information for the Shares will be available on the facilities of the Consolidated Tape Association ("CTA"). Information regarding market price and volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Daily trading volume information for the Fund will also be available through subscription services such as Bloomberg, Thomson Reuters, and International Data Corporation, which can be accessed by authorized participants and other investors, as well as through other electronic services, including major public websites.

In addition, the "Intraday Indicative Value"²⁹ will be updated and widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Regular

²⁸ 15 U.S.C. 78k-1(a)(1)(C)(iii).

²⁹ According to the Exchange, the Intraday Indicative Value for each Fund will reflect an estimated intraday value of such Fund's portfolio, and will be based upon the current

Trading Hours.³⁰ On each business day, before commencement of trading in Shares during Regular Trading Hours on the Exchange, the Fund will disclose on its website the identities and quantities of the portfolio of securities and other assets (the “Disclosed Portfolio”) held by the Fund that will form the basis for the Fund’s calculation of NAV at the end of the business day.³¹ The website for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. The website and information will be publicly available at no charge.

Intraday, closing, and settlement prices of common stocks and other exchange-listed instruments (including futures, options, Depositary Receipts, preferred securities, convertible securities, warrants, rights, MLPs, commodity-related pooled investment vehicles, and ETFs) will be readily available from the exchanges trading such securities as well as automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. In addition, price information for U.S. exchange-traded options will be available from the Options Price Reporting Authority.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be

value for the components of the Disclosed Portfolio (as defined below). The quotations of certain of the Fund’s holdings may not be updated during U.S. trading hours if such holdings do not trade in the United States or if updated prices cannot be ascertained. The Exchange’s Regular Trading Hours are 9:30 a.m. to 4:00 p.m. Eastern Time.

³⁰ The Exchange notes that that several major market data vendors display and/or make widely available Intraday Indicative Values published via the CTA or other data feeds.

³¹ Under accounting procedures to be followed by the Fund, trades made on the prior business day (“T”) will be booked and reflected in NAV on the current business day (“T+1”). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

assured. The NAV of the Fund's Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the Exchange, generally 4:00 p.m. Eastern Time (the "NAV Calculation Time") on each day that the Exchange is open for trading, based on prices at the NAV Calculation Time. The Exchange will obtain a representation from the issuer of the Shares that the NAV will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.³²

Trading in the Shares will be subject to BZX Rules 11.18 and 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares of the Fund may be halted. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which trading is not occurring in the securities and/or the financial instruments composing the Disclosed Portfolio of a Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

The Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the portfolio.³³ The Exchange represents that it prohibits the distribution of material non-public information by its employees.³⁴ The Exchange states that the Adviser is not registered as a broker-dealer but that the Adviser is affiliated with a broker-dealer. In addition, the Exchange states that the Adviser has implemented a "fire wall" with respect to such broker-dealer regarding access to information

³² See Notice, supra note 4, 80 FR 45551.

³³ See BZX Rule 14.11(i)(4)(B)(ii)(b).

³⁴ See Notice, supra note 4, 80 FR at 45552.

concerning the composition and/or changes to the Fund's portfolio.³⁵ In the event (a) the Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

The Exchange may obtain information regarding trading in the Shares and the underlying shares in exchange traded investment companies, U.S. equity securities, foreign equity securities, futures, and options via the ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.³⁶ In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to FINRA's Trade Reporting and Compliance Engine. The Exchange can also access municipal bond trading activity for surveillance purposes in connection with trading in the Shares through the Electronic Municipal Market Access ("EMMA")³⁷ of the Municipal Securities Rulemaking Board.

³⁵ See id.

³⁶ For a list of the current members and affiliate members of ISG, see www.isgportal.com. The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange also notes that all exchange-traded instruments, including ETFs, commodity-related pooled investment vehicles, futures, and options will trade on markets that are a member or affiliate of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

³⁷ Information available from EMMA includes next-day information regarding municipal securities transactions and par amounts traded.

The Exchange represents that it deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made the following representations:

- (1) The Shares will be subject to BZX Rule 14.11(i), which sets for the initial and continued listing criteria applicable to Managed Fund Shares.
- (2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.
- (3) Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Fund Shares, and such surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws.
- (4) Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (a) the procedures for purchases and redemptions of Shares in creation units (and that Shares are not individually redeemable); (b) BZX Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (c) how information regarding the Intraday Indicative Value and Disclosed Portfolio is disseminated; (d) the risks involved in trading the Shares during the Pre-Opening and After Hours Trading Sessions (as defined in the Exchange's rules) when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (e) the

requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

- (5) For initial and continued listing, the Fund must be in compliance with Rule 10A-3 under the Act.³⁸
- (6) The Fund will not invest more than 20% of the Fund's total assets in non-agency ABS.
- (7) The Fund will not invest more than 20% of the Fund's total assets in municipal securities.
- (8) In the aggregate, the Fund will not invest more than 20% of its total assets in the following instruments: (a) structured investments; and (b) Unregistered Securities that do not satisfy the generic fixed income listing requirements in BZX Rule 14.11(i)(4)(C)(ii)(d) measured at the time of purchase. An Unregistered Security that no longer meets the generic fixed income listing requirements of BZX Rule 14.11(i)(4)(C)(ii)(d) will be taken into account for purposes of determining whether purchases of additional structured investments and Unregistered Securities that do not meet the Fixed Income Rule will cause the Fund to violate this 20% limitation.
- (9) The Fund will not invest in inverse or leveraged (e.g., 2X, -2X, 3X or -3X) commodity-related pooled investment vehicles.

³⁸ See 17 CFR 240.10A-3.

- (10) All exchange-traded equity securities in which the Fund may invest will trade on markets that are ISG members or that have entered into a comprehensive surveillance agreement with the Exchange.
- (11) The Fund may hold up to an aggregate amount of 15% of the Fund's Assets in illiquid assets (calculated at the time of investment), including restricted securities deemed illiquid by the Adviser under the 1940 Act.
- (12) A minimum of 100,000 Shares for each Fund will be outstanding at the commencement of trading on the Exchange.

The Exchange represents that all statements and representations made in the filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures constitute continued listing requirements for listing the Shares on the Exchange. In addition, the issuer has represented to the Exchange that it will advise the Exchange of any failure by a Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12.

This approval order is based on all of the Exchange's representations, including those set forth above and in Amendment Nos. 2 and 3. The Commission notes that the Funds and the Shares must comply with the requirements of BZX Rule 14.11(i) to be initially and continuously listed and traded on the Exchange.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1, 2, and 3, is consistent with Section 6(b)(5) of the Act³⁹ and Section 11A(a)(1)(C)(iii) of the Act⁴⁰ 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 Act,⁴¹ that the proposed rule change (SR-BatsBZX-2016-35), as modified by Amendment Nos. 1, 2, and 3, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴²

Brent J. Fields
Secretary

³⁹ 15 U.S.C. 78f(b)(5).

⁴⁰ 15 U.S.C. 78k-1(a)(1)(C)(iii).

⁴¹ 15 U.S.C. 78s(b)(2).

⁴² 17 CFR 200.30-3(a)(12).