

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-72216; File No. SR-NYSEArca-2013-122)

May 21, 2014

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of Longer Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove Proposed Rule Change, as Modified by Amendment No. 2 Thereto, Relating to the Use of Derivative Instruments by PIMCO Total Return Exchange Traded Fund

On November 6, 2013, NYSE Arca, Inc. (“Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change relating to the use of derivative instruments by the PIMCO Total Return Exchange Traded Fund (“Fund”). The proposed rule change was published for comment in the Federal Register on November 26, 2013.³ On January 9, 2014, pursuant to Section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵ On February 24, 2014, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change.⁶ On April 15, 2014, the Exchange

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 70905 (Nov. 20, 2013), 78 FR 70610 (“Notice”).

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 71271, 79 FR 2736 (Jan. 15, 2014). The Commission determined that it was appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission designated February 24, 2014 as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

⁶ See Securities Exchange Act Release No. 71606, 79 FR 11486 (Feb. 28, 2014).

submitted Amendment Nos. 1 and 2 to the proposed rule change.⁷ The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act⁸ provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the Federal Register on November 26, 2013. May 25, 2014 is 180 days from that date, and July 24, 2014 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider this proposed rule change. The proposed rule change would, among other things, permit the continued listing and trading of shares of the Fund that seeks to invest in certain derivative instruments, including forwards, exchange-traded and over-the-counter options contracts, exchange-traded futures contracts, options on futures contracts, and swap agreements.

⁷ The Exchange submitted and subsequently withdrew Amendment No. 1 to the proposed rule change. In Amendment No. 2, the Exchange provided additional details describing how the contents of the portfolio composition of the Fund would be disclosed on a daily basis. Specifically, the Fund will disclose on the Fund's website the following information regarding each portfolio holding, as applicable to the type of holding: ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding, such as the type of swap); the identity of the security, commodity, index or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio.

⁸ 15 U.S.C. 78s(b)(2).

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,⁹ designates July 24, 2014 as the date by which the Commission should either approve or disapprove the proposed rule change (File Number SR-NYSEArca-2013-122), as modified by Amendment No. 2 thereto.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Kevin M. O'Neill
Deputy Secretary

⁹ Id.

¹⁰ 17 CFR 200.30-3(a)(57).