

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-62856; File No. SR-NYSEArca-2010-68)

September 7, 2010

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of a Proposed Rule Change Relating to Listing and Trading of Shares of the PIMCO Build America Bond Strategy Fund

I. Introduction

On July 14, 2010, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) 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 to list and trade shares (“Shares”) of the PIMCO Build America Bond Strategy Fund (the “Fund”) of the PIMCO ETF Trust (the “Trust”) under NYSE Arca Equities Rule 8.600 (Managed Fund Shares). The proposed rule change was published in the Federal Register on August 4, 2010.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to list and trade the Shares pursuant to NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares. The Shares will be offered by the Trust.⁴ Pacific Investment Management Company LLC (“PIMCO”) is the investment

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 62585 (July 28, 2010), 75 FR 47045 (“Notice”).

⁴ The Trust is a Delaware statutory trust that is registered under the Investment Company Act of 1940 (15 U.S.C. 80a) (“1940 Act”). See Registration Statement on Amendment No. 15 to Form N-1A for the Trust filed with the Securities and Exchange Commission on March 10, 2010 (File Nos. 333-155395 and 811-22250) (the “Registration Statement”).

adviser (“Adviser”) for the Fund.⁵ State Street Bank & Trust Co. is the custodian and transfer agent for the Fund. The Trust’s Distributor is Allianz Global Investors Distributors LLC (the “Distributor”), an indirect subsidiary of Allianz Global Investors of America L.P. (“AGI”), PIMCO’s parent company.⁶ The Distributor is a registered broker-dealer.⁷

⁵ The Exchange represents that the Adviser, as the investment adviser of the Fund, and its related personnel, are subject to Investment Advisers Act Rule 204A-1.

⁶ The Fund has received an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a-1) (“1940 Act”). In compliance with Commentary .04 to NYSE Arca Equities Rule 8.600, which applies to Managed Fund Shares, the Trust’s application for exemptive relief under the 1940 Act states that the Fund will comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933 (15 U.S.C. 77a). See email from Tim Malinowski, Senior Director, Global Index and Exchange Traded Funds, Exchange, to Ronsha Butler and Kristie Diemer, Special Counsels, Division, Commission, dated September 2, 2010, clarifying applicability of Commentary .04.

⁷ Commentary .06 to Rule 8.600 provides that, if the investment adviser to the Investment Company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such Investment Company portfolio. In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund’s portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund’s portfolio. The Adviser is affiliated with a broker-dealer, Allianz Global Investors Distributors LLC, and has implemented a fire wall with respect to such broker-dealer regarding access to information concerning the composition and/or changes to a portfolio.

The Fund seeks to achieve its investment objective by investing under normal circumstances at least 80% of its assets in taxable municipal debt securities publicly issued under the Build America Bond program. The Build America Bond program was created as part of the American Recovery and Reinvestment Act of 2009 (the “2009 Act”) (“Build America Bonds”). The Fund invests in U.S. dollar-denominated Fixed Income Instruments that are primarily investment grade, but may invest up to 20% of its total assets in high yield securities (“junk bonds”) rated B or higher by Moody’s Investors Service, Inc., or equivalently rated by Standard & Poor’s Ratings Services or Fitch, Inc., or, if unrated, determined by PIMCO to be of comparable quality.⁸

The average portfolio duration of the Fund normally varies within two years (plus or minus) of the duration of The Barclays Capital Build America Bond Index, which as of June 25, 2010, was approximately 12 years.

⁸ According to the Registration Statement, the Fund may invest in “Fixed Income Instruments,” consistent with the Fund’s objective. Fixed Income Instruments, as used generally in the Registration Statement, include:

- securities issued or guaranteed by the U.S. Government, its agencies or government-sponsored enterprises (“U.S. Government Securities”);
- corporate debt securities of U.S. and non-U.S. issuers, including corporate commercial paper;
- mortgage-backed and other asset-backed securities;
- inflation-indexed bonds issued both by governments and corporations;
- trust preferred securities;
- delayed funding loans and revolving credit facilities;
- bank certificates of deposit, fixed time deposits and bankers’ acceptances;
- repurchase agreements on Fixed Income Instruments and reverse repurchase agreements on Fixed Income Instruments;
- debt securities issued by states or local governments and their agencies, authorities and other government-sponsored enterprises;
- obligations of non-U.S. governments or their subdivisions, agencies and government-sponsored enterprises; and
- obligations of international agencies or supranational entities.

Municipal bonds generally are issued by or on behalf of states and local governments and their agencies, authorities and other instrumentalities. Unlike most municipal bonds, interest received on Build America Bonds is subject to federal and state income tax. Pursuant to the 2009 Act, issuers of “direct pay” Build America Bonds (i.e., taxable municipal bonds issued to provide funds for qualified capital expenditures) are entitled to receive payments from the U.S. Treasury over the life of the bond equal to 35% (or 45% in the case of Recovery Zone Economic Development Bonds) of the interest paid. The federal interest subsidy continues for the life of the bonds.⁹

The Exchange states that the Shares will be subject to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600 applicable to Managed Fund Shares¹⁰ and that the

⁹ Issuance of Build America Bonds will cease on December 31, 2010 unless the relevant provisions of the 2009 Act are extended. In the event that the Build America Bond program is not extended, the Build America Bonds outstanding at such time will continue to be eligible for the federal interest rate subsidy, which continues for the life of the Build America Bonds; however, no bonds issued following expiration of the Build America Bond program will be eligible for the federal tax subsidy. If the Build America Bond program is not extended, the Fund will evaluate the Fund’s investment strategy and make appropriate changes that it believes are in the best interests of the Fund, including changing the Fund’s investment strategy to invest in other taxable municipal securities.

The Exchange has represented that in the event the Build America Bond program is not extended and the Fund determines to change its investment strategy, the Exchange will file a proposed rule change pursuant to Rule 19b-4 under the Act to permit continued listing of the Fund, and the Fund has represented to the Exchange that it will not change its investment strategy until such proposed rule change is approved by the Commission or becomes effective under Section 19(b) of the Act.

¹⁰ The Exchange states that a minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange, and the Exchange will obtain a representation from the issuer of the Shares that the net asset value (“NAV”) per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. See Notice, supra note 3.

Shares will comply with Rule 10A-3 under the Act,¹¹ as provided by NYSE Arca Equities Rule 5.3.

Additional information regarding the Trust, the Fund, the Shares, the Fund's investment objectives, strategies, policies, and restrictions, risks, fees and expenses, creation and redemption procedures, portfolio holdings and policies, distributions and taxes, availability of information, trading rules and halts, and surveillance procedures, among other things, can be found in the Registration Statement and in the Notice, as applicable.¹²

III. Discussion and Commission Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of Section 6 of the Act¹³ and the rules and regulations thereunder applicable to a national securities exchange.¹⁴ In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,¹⁵ 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. The Commission notes that the Shares must comply with the requirements of NYSE Arca Equities Rule 8.600 to be listed and traded on the Exchange.

¹¹ 17 CFR 240.10A-3.

¹² See supra notes 3 and 4.

¹³ 15 U.S.C. 78f.

¹⁴ 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).

¹⁵ 17 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 Act,¹⁶ 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 and last-sale information for the Shares will be available via the Consolidated Tape Association ("CTA") high-speed line, and the Exchange will disseminate the Portfolio Indicative Value ("PIV") at least every 15 seconds during the Core Trading Session on the Exchange. In addition, the Fund will make available on a website on each business day the identities and quantities of the portfolio of securities and other assets ("Disclosed Portfolio") that will form the basis for the calculation of the NAV, which will be determined as of the close of the regular trading session on the Exchange (ordinarily 4:00 p.m. Eastern Time) on each business day. The Fund's website will also include additional quantitative information updated on a daily basis relating to trading volume, prices, and NAV. Information regarding the market price and volume of the Shares will be continually available on a real-time basis throughout the day via electronic services, and the previous day's closing price and trading volume information for the Shares will be published daily in the financial sections of newspapers.

The Commission further believes that the proposal 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 assured. The Commission notes that the Exchange will obtain a representation from the issuer that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market

¹⁶ 15 U.S.C. 78k-1(a)(1)(C)(iii).

participants at the same time.¹⁷ Additionally, if it becomes aware that the NAV or the Disclosed Portfolio is not disseminated daily to all market participants at the same time, the Exchange will halt trading in the Shares until such information is available to all market participants.¹⁸ Further, if the PIV is not being disseminated as required, the Exchange may halt trading during the day in which the disruption occurs; if the interruption persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.¹⁹ The Exchange represents that the Adviser is affiliated with a broker-dealer, Allianz Global Investors Distributors LLC, and has implemented a “fire wall” between it and its broker-dealer affiliate with respect to access to information concerning the composition and/or changes to the Fund’s portfolio. Further, the Commission notes that 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.²⁰

The Exchange has represented that the Shares are equity securities subject to the Exchange’s rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including:

- (1) The Shares will be subject to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600(d).

¹⁷ See NYSE Arca Equities Rule 8.600(d)(1)(B).

¹⁸ See NYSE Arca Equities Rule 8.600(d)(2)(D).

¹⁹ Id. Trading in the Shares may also 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 comprising the Disclosed Portfolio and/or the financial instruments of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

²⁰ See NYSE Arca Equities Rule 8.600(d)(2)(B)(ii).

- (2) The Exchange's surveillance procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.
- (3) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) the procedures for purchases and redemptions of Shares in Creation Units and that Shares are not individually redeemable; (b) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated PIV will not be calculated or publicly disseminated; (d) how information regarding the PIV is disseminated; (e) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.
- (4) The Fund will be in compliance with Rule 10A-3 under the Act.
- (5) The Fund will not invest in non-U.S. equity securities.

This approval order is based on the Exchange's representations.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act 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,²¹ that the proposed rule change (SR-NYSEArca-2010-68), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

Elizabeth M. Murphy
Secretary

²¹ 15 U.S.C. 78s(b)(2).

²² 17 CFR 200.30-3(a)(12).