

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.¹⁸ 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 Section 6(b)(5) of the Act¹⁹ and the rules and regulations thereunder applicable to a national securities exchange.

III. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²⁰ that the proposed rule change (SR-NYSEArca-2009-83) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60977; File No. SR-CBOE-2009-086]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposal To Permit \$1 Strikes for RMN Options

November 10, 2009.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act")² and Rule 19b-4 thereunder,³ notice is hereby given that, on November 6, 2009, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act⁴ and Rule 19b-4(f)(6) thereunder.⁵ The Commission is publishing this notice to solicit

comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to amend certain of its rules to allow the Exchange to list options on the Mini-Russell 2000 Index ("RMN" or "Mini-RUT"), which is based on 1/10th the value of the Russell 2000 Index, at \$1 strike intervals. The text of the rule proposal is available on the Exchange's Web site (<http://www.cboe.org/legal>), at the Exchange's Office of the Secretary and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

This proposed rule change is based on a filing previously submitted by NASDAQ OMX PHLX, Inc. ("Phlx") that was recently approved by the Commission.⁶

The purpose of the proposed rule change is to amend Rule 24.9, *Terms of Index Option Contracts*, by adding a new interpretation that would allow the Exchange to list options on the RMN, which is based on 1/10th the value of the Russell 2000 Index, at \$1 or greater strike price intervals, if the strike price is less than \$200.⁷

Strike price intervals for index options are set forth in Rules 5.5 and 24.9 at three levels: (1) Not less than

\$5.00 generally, (2) not less than \$2.50 for index classes specifically listed in Rule 24.9.01(a), and (3) not less than \$1 for certain other index classes set forth in Rule 24.9.01 (e.g., 24.9.01(b) provides for \$0.50 strike price intervals for options based on one-one hundredth the value of the DJIA, 24.9.01(h) provides for \$1 strike price intervals for Mini-Nasdaq 100 Index ("MNX" or "Mini-NDX") options).

The Exchange now proposes that the minimum strike price interval for RMN options will be \$1 or greater, if the strike price is less than \$200. The Exchange believes that \$1 strike price intervals in this option series will provide investors with greater flexibility by allowing them to establish positions that are better tailored to meet their investment objectives.

For initial series, the Exchange would list at least two strike prices above and two strike prices below the current value of the RMN at or about the time a series is opened for trading on the Exchange. As part of this initial listing, the Exchange would list strike prices that are within 5 points from the closing value of the RMN on the preceding day.

As for additional series, the Exchange would be permitted to add additional series when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the underlying RMN moves substantially from the initial exercise price or prices. To the extent that any additional strike prices are listed by the Exchange, such additional strike prices shall be within thirty percent (30%) above or below the closing value of the RMN. The Exchange would also be permitted to open additional strike prices that are more than 30% above or below the current RMN value provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate or individual customers or their brokers. Market-Makers trading for their own account would not be considered when determining customer interest. In addition to the initial listed series, the Exchange may list up to sixty (60) additional series per expiration month for each series in Mini-RUT options. However, \$1 strike price intervals may be listed on Mini-RUT options only where the strike price is below \$200. In addition, the Exchange proposes that it shall not list LEAPS on Mini-RUT options at intervals less than \$2.50.

The Exchange is also proposing to set forth a delisting policy with respect to Mini-RUT options. Specifically, the Exchange would, on a monthly basis, review series that are outside a range of five (5) strikes above and five (5) strikes

¹⁸ See *supra* note 7.

¹⁹ 15 U.S.C. 78f(b)(5).

²⁰ 15 U.S.C. 78s(b)(2).

²¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

⁵ 17 CFR 240.19b-4(f)(6).

⁶ See Exchange Act Release No. 60840 (October 20, 2009), 74 FR 55593 (October 28, 2009) (SR-Phlx-2009-77) (order approving proposal to permit the listing of certain option series at \$1 and \$2.50 strike price intervals for strike prices below \$200). CBOE's current filing is solely concerned with \$1 strike intervals for Mini-RUT options, which was the only multiply-listed option class addressed in SR-Phlx-2009-77.

⁷ Currently, under Interpretation and Policy .01(a)(xlxi) to Rule 24.9, the Exchange has authority to list Mini-RUT options at \$2.50 strike price intervals, if the strike price is less than \$200.

below the current value of the RMN and delist series with no open interest in both the put and the call series having a: (i) Strike higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) strike lower than the lowest strike price with open interest in the put and/or call series for a given expiration month.

Notwithstanding the proposed delisting policy, customer requests to add strikes and/or maintain strikes in Mini-RUT options in series eligible for delisting shall be granted.

Further, in connection with the proposed delisting policy, if the Exchange identifies series for delisting, the Exchange shall notify other options exchanges with similar delisting policies regarding eligible series for listing, and shall work with such other exchanges to develop a uniform list of series to be delisted, so as to ensure uniform series delisting of multiply listed Mini-RUT options.

It is expected that the proposed delisting policy for Mini-RUT options will be adopted by other options exchanges that list and trade Mini-RUT options.

The Exchange also proposes to add new Interpretation and Policy .16 to Rule 5.5, *Series of Option Contracts Open for Trading*, which would be an internal cross reference stating that the intervals between strike prices for Mini-RUT option series would be determined in accordance with proposed new Interpretation and Policy .01(k) to Rule 24.9.

Technical Changes

The Exchange is proposing to make some lettering and numbering changes to the Interpretations and Policies to Rules 5.5 and 24.9, which are being amended substantively by this filing. Specifically, the Exchange is proposing to re-number existing Interpretation and Policy .13 to Rule 5.5 as new Interpretation and Policy .15. The Exchange is proposing to make this change because the Exchange has two pending filings that have been formally submitted which overlap with the existing and proposed numbering to Rule 5.5.⁸ Similarly, the Exchange is proposing to re-letter existing Interpretation and Policy .01(h) to Rule

⁸ See SR-CBOE-2009-022 (proposal to list and trade S&P 500 Dividend Index options and proposing to add new paragraph .13 to Rule 5.5 and new paragraph (h) to Rule 24.9.01 for S&P 500 Dividend Index options), and SR-CBOE-2009-080 (proposal to list and trade options on Equity-Based Volatility Index options and proposing to add new paragraph .14 to Rule 5.5 and new paragraph (i) to Rule 24.9.01 for Equity-Based Volatility Index options).

24.9 as new Interpretations and Policy .01(j). The Exchange is proposing to make this change because the previously referenced pending filings also overlap with the existing and proposed lettering to Rule 24.9.01.

Finally, the Exchange is proposing to reduce the minimum strike price intervals for LEAPS on Mini-NDX options from \$5 to \$2.50 in order to conform CBOE's listing ability with Phlx's.⁹

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act")¹⁰ and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.¹¹ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹² requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest by allowing the Exchange to list Mini-RUT options at \$1 strike price intervals.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time

⁹ See Commentary .02(c) to Phlx Rule 1101A, Terms of Option Contracts, providing that LEAPS on Mini-NDX options shall be listed at intervals not less than \$2.50.

¹⁰ 15 U.S.C. 78s(b)(1).

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹³ and Rule 19b-4(f)(6) thereunder.¹⁴

The Exchange has requested that the Commission waive the 30-day operative delay and designate the proposed rule change immediately operative, so that the Exchange may, for competitive reasons, list Mini-RUT options at the same \$1 strike price intervals currently listed by Phlx. The Commission believes such waiver is consistent with the protection of investors and the public interest.¹⁵ Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2009-086 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2009-086. This file

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁵ For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2009-086 and should be submitted on or before December 9, 2009.

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

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60981; File No. SR-NYSEArca-2009-79]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to Listing of Five Fixed Income Funds of the PIMCO ETF Trust

November 10, 2009.

On August 27, 2009, NYSE Arca, Inc. ("NYSE Arca" or "Exchange"), through its wholly owned subsidiary, NYSE Arca Equities, Inc. ("NYSE Arca Equities"), 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 following funds of the PIMCO ETF Trust ("Trust") under NYSE Arca Equities Rule 8.600 (Managed Fund Shares): PIMCO Enhanced Short Maturity Strategy Fund; PIMCO Government Limited Maturity Strategy Fund; PIMCO Intermediate Municipal Bond Strategy Fund; PIMCO Prime Limited Maturity Strategy Fund; and PIMCO Short Term Municipal Bond Strategy Fund (each a "Fund" and, collectively, the "Funds"). The proposed rule change was published in the **Federal Register** on September 11, 2009.³ The Commission received no comments on the proposal. On November 10, 2009, the Exchange filed Amendment No. 1 to the proposed rule change.⁴ This order provides notice of the filing of Amendment No. 1, and approves the proposed rule change, as modified by Amendment No. 1 thereto, on an accelerated basis.

I. 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 of Managed Fund Shares. Each of the Funds will be an actively managed exchange-traded fund. The Shares will be offered by the Trust.⁵ Pacific Investment Management Company LLC

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 60619 (September 3, 2009), 74 FR 46820 ("Notice").

⁴ Amendment No. 1 reflects the following changes to the proposed rule change: (a) On November 3, 2009, the Trust filed a Registration Statement on Form N-1A with the Commission (File Nos. 333-155395 and 811-22250); (b) with respect to the PIMCO Enhanced Short Maturity Strategy Fund, such Fund will be restricted from investing in derivative instruments such as options contracts, futures contracts, options on futures contracts, and swap agreements (including, but not limited to, credit default swaps and swaps on exchange-traded funds); and (c) the respective creation unit sizes for the following Funds will be changed:

(i) PIMCO Enhanced Short Maturity Strategy Fund creation unit size will be reduced to 70,000 shares from 100,000 shares;

(ii) PIMCO Government Limited Maturity Strategy Fund creation unit size will be reduced to 90,000 shares from 100,000 shares; and

(iii) PIMCO Prime Limited Maturity Strategy Fund creation unit size will be reduced to 90,000 shares from 100,000 shares.

The creation unit sizes for each of the PIMCO Intermediate Municipal Bond Strategy Fund and the PIMCO Short Term Municipal Bond Strategy Fund will not change and will be 100,000 shares, respectively.

⁵ 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 Form N-1A for the Trust filed with the Commission on November 3, 2009 (File Nos. 333-155395 and 811-22250) ("Registration Statement").

("PIMCO" or "Adviser") is the investment adviser to each Fund.⁶ State Street Bank & Trust Co. is the custodian and transfer agent for the Funds. The Trust's Distributor is Allianz Global Investors Distributors LLC ("Distributor"), an indirect subsidiary of Allianz Global Investors of America L.P., PIMCO's parent company. The Distributor is a registered broker-dealer.⁷

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 Shares⁸ and that the Shares will comply with Rule 10A-3

⁶ The Exchange represents that the Adviser, as the investment adviser of the Funds, and its related personnel, are subject to Investment Advisers Act Rule 204A-1. This Rule specifically requires the adoption of a code of ethics by an investment adviser to include, at a minimum: (i) Standards of business conduct that reflect the firm's/personnel fiduciary obligations; (ii) provisions requiring supervised persons to comply with applicable federal securities laws; (iii) provisions that require all access persons to report, and the firm to review, their personal securities transactions and holdings periodically as specifically set forth in Rule 204A-1; (iv) provisions requiring supervised persons to report any violations of the code of ethics promptly to the chief compliance officer ("CCO") or, provided the CCO also receives reports of all violations, to other persons designated in the code of ethics; and (v) provisions requiring the investment adviser to provide each of the supervised persons with a copy of the code of ethics with an acknowledgement by said supervised persons. In addition, Rule 206(4)-7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

⁷ The Funds have made application for an order granting certain exemptive relief to the Trust under the 1940 Act. In compliance with Commentary .05 to NYSE Arca Equities Rule 8.600, which applies to Managed Fund Shares based on an international or global portfolio, the Trust's application for exemptive relief under the 1940 Act states that the Funds 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).

⁸ 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.

¹⁶ 17 CFR 200.30-3(a)(12).