

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; (ii) Section 11A(a)(1) of the Act,<sup>15</sup> in that it seeks to ensure the economically efficient execution of securities transactions and fair competition among brokers and dealers and among exchange markets; and (iii) Section 12(f) of the Act,<sup>16</sup> which governs the trading of securities pursuant to UTP consistent with the maintenance of fair and orderly markets, the protection of investors and the public interest, and the impact of extending the existing markets for such securities. Under the UTP Pilot Program Nasdaq Securities trade on the Exchange pursuant to rules governing the trading of Exchange-Listed securities that previously have been approved by the Commission. NYSE Amex made certain minor modifications to the operation of these rules, and added certain new rules, to accommodate the trading of Nasdaq Securities on a UTP basis; the Commission also approved all of these modifications and additions.

#### *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**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>17</sup> and Rule 19b-4(f)(6) thereunder.<sup>18</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become

effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEAmex-2010-89 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-NYSEAmex-2010-89. This file 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 website (<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 website viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the 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-NYSEAmex-2010-89 and should be submitted on or before October 5, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**Elizabeth M. Murphy,**  
*Secretary.*

[FR Doc. 2010-22859 Filed 9-13-10; 8:45 am]

BILLING CODE 8010-01-P

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-62858; File No. SR-BATS-2010-023]

### **Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.**

September 7, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 30, 2010, BATS Exchange, Inc. ("BATS" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. BATS has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposed rule change effective upon filing with the Commission. 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**

The Exchange proposes to modify its fee schedule applicable to Members<sup>5</sup> of the Exchange pursuant to BATS Rules 15.1(a) and (c). While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on September 1, 2010.

<sup>19</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

<sup>5</sup> A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

<sup>15</sup> 15 U.S.C. 78k-1(a)(1).

<sup>16</sup> 15 U.S.C. 78l(f).

<sup>17</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>18</sup> 17 CFR 240.19b-4(f)(6).

The text of the proposed rule change is available at the Exchange's Web site at <http://www.batstrading.com>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

## 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 Exchange 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 these 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 aspects of such statements.

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

#### 1. Purpose

The Exchange proposes to modify the "equities pricing" section of its fee schedule to: (i) adopt pricing for certain new routing strategies that the Exchange recently adopted; (ii) modify its pricing for Destination Specific Orders executed at NYSE Arca; (iii) eliminate a currently dormant market data product from its fee schedule; and (iv) change the name of one of its routing strategies. In addition, the Exchange proposes to modify fees applicable to options trading by eliminating certain clearing fees that it currently passes on to its Members.

#### (i) Adoption of Fees for New Parallel Routing Strategies

The Exchange recently adopted rules permitting it to offer certain new routing strategies, and plans on offering such routing strategies in the near future.<sup>6</sup> Accordingly, the Exchange proposes to adopt fees applicable to such routing strategies. As proposed, the Exchange will offer both Parallel D and Parallel 2D routing at the same rate as it offers its CYCLE and RECYCLE routing strategies.<sup>7</sup> Specifically, the Exchange proposes to charge \$0.0028 per share for executions that occur at other trading venues as a result of either Parallel D or Parallel 2D routing. The Exchange proposes to offer its Parallel T routing strategy with a charge of \$0.0033 per

share for executions that occur at other trading venues as a result of such routing. To be consistent with these proposed fees and the current fee structure for CYCLE and RECYCLE routed executions, the Exchange proposes to charge 0.28% of the total dollar value of the execution for any security priced under \$1.00 per share that is routed away from the Exchange through Parallel D or Parallel 2D. Similarly, and based on the charge of \$0.0033 per share for Parallel T routing, the Exchange proposes to charge 0.33% of the total dollar value of the execution for any security priced under \$1.00 per share that is routed away from the Exchange through Parallel T.

#### (ii) NYSE Arca Destination Specific Orders

The Exchange proposes to modify its fee schedule applicable to use of the Exchange in order to amend the fees for its BATS + NYSE Arca destination specific routing option to continue to offer a "one under" pricing model. The Exchange has previously provided a discounted price fee for Destination Specific Orders routed to certain of the largest market centers measured by volume (NYSE, NYSE Arca and NASDAQ), which, in each instance has been \$0.0001 less per share for orders routed to such market centers by the Exchange than such market centers currently charge for removing liquidity (referred to by the Exchange as "One Under" pricing). Based on changes in pricing at NYSE Arca, BATS is proposing a change to its price for BATS + NYSE Arca Destination Specific Orders to align its fees so they are \$0.0001 less per share for orders routed to NYSE Arca. Specifically, the Exchange proposes to increase the fee charged for BATS + NYSE Arca Destination Specific Orders executed at NYSE Arca in Tape A and C securities from \$0.0028 to \$0.0029 per share.

#### (iii) Deletion of Data Product

In order to avoid confusion, the Exchange proposes to delete a reference on its fee schedule to a specific data product that it is not currently offering. Earlier this year, the Exchange proposed and received approval to offer certain market data products for a fee for the first time. Market Insight was one such product proposed and approved to be offered by the Exchange. However, the Exchange has decided not to offer this product at this time, and thus, proposes deletion of reference to the product from its fee schedule to avoid confusion. If the Exchange does decide to offer Market Insight as approved, it will provide notice to its Members and will

file a rule proposal to reinstate reference to Market Insight on its fee schedule.

#### (iv) Name Change of Routing Strategy

The Exchange has decided to re-brand one of its routing strategies, currently referred to as "DART," as the "Dark Routing Technique" or "DRT". Accordingly, the Exchange proposes modification of the "DART" acronym throughout the fee schedule to "DRT".

#### (v) Options Clearing Charges

The Exchange currently charges \$0.05 per contract for its standard options routing service and \$0.10 per contract for Directed ISOs routed to away markets, and, in addition, passes through all destination exchange fees for executions at away markets. Effective June 1, 2010, the Exchange began passing through to Options Members, in addition to destination exchange fees, the actual clearing fees billed to the Exchange for the execution of orders routed from the Exchange. The Exchange proposes to eliminate the clearing fee pass through charge, both to simplify pricing of its routing services and to encourage Options Members to utilize the Exchange's routing services.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.<sup>8</sup> Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>9</sup> in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The Exchange believes that its fees and credits are competitive with those charged by other venues. Finally, the Exchange believes that the proposed rates are equitable in that they apply uniformly to all Members.

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

The Exchange does not believe that the proposed rule change imposes any burden on competition.

<sup>6</sup> See Securities Exchange Act Release No. 62404 (June 30, 2010), 75 FR 39303 (July 8, 2010) (SR-BATS-2010-017).

<sup>7</sup> See Rule 11.13(a)(3).

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(4).

*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.

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

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>10</sup> and Rule 19b-4(f)(2) thereunder,<sup>11</sup> because it establishes or changes a due, fee or other charge imposed on members by the Exchange. Accordingly, the proposal is effective upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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](mailto:rule-comments@sec.gov). Please include File Number SR-BATS-2010-023 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-BATS-2010-023. This file 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing will also 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 No. SR-BATS-2010-023 and should be submitted on or before October 5, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

Elizabeth M. Murphy,  
Secretary.

[FR Doc. 2010-22836 Filed 9-13-10; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62856; File No. SR-NYSEArca-2010-68]

### 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

September 7, 2010.

#### 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")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup> Pacific Investment Management Company LLC ("PIMCO") is the investment adviser ("Adviser") for the Fund.<sup>5</sup> 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.<sup>6</sup> The Distributor is a registered broker-dealer.<sup>7</sup>

The Fund seeks to achieve its investment objective by investing under

<sup>3</sup> See Securities Exchange Act Release No. 62585 (July 28, 2010), 75 FR 47045 ("Notice").

<sup>4</sup> 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").

<sup>5</sup> 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.

<sup>6</sup> 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 Ronesha Butler and Kristie Diemer, Special Counsels, Division, Commission, dated September 2, 2010, clarifying applicability of Commentary .04.

<sup>7</sup> 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.

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

<sup>12</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.