

Dated at Rockville, Maryland, this 19th day of June 2012.

For the Nuclear Regulatory Commission.  
**Andrew L. Bates,**  
*Acting Secretary of the Commission.*

**ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING**

Day	Event/activity
0 .....	Publication of <b>Federal Register</b> notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10 .....	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60 .....	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20 .....	Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25 .....	If NRC staff finds no "need" or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30 .....	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40 .....	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A .....	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3 .....	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28 .....	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53 .....	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60 .....	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60 .....	Decision on contention admission.

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**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-67215; File No. TP 11-07]**

**Order Granting a Limited Exemption From Exchange Act Rule 10b-17 to Certain Actively Managed Exchange-Traded Funds Pursuant to Exchange Act Rule 10b-17(b)(2)**

June 19, 2012.

By letter dated June 19, 2012 ("letter"), as supplemented by conversations with the staff of the Division of Trading and Markets ("Staff"), counsel for PIMCO ETF Trust ("Trust") requested on behalf of the Trust and PIMCO Global Advantage Inflation-Linked Bond Strategy Fund ("Fund") that the Securities and Exchange Commission ("Commission") issue an exemption from Rule 10b-17 under the Securities Exchange Act of

1934, as amended ("Exchange Act"). Specifically, the letter requests that the Commission exempt issuers of actively managed exchange-traded funds ("ETFs") such as the Trust from the requirements of Exchange Act Rule 10b-17(b)(1)(v)(a) and (b) subject to certain conditions. The request is similar to a number of requests from issuers of actively managed ETFs for conditional exemptive relief from Rule 10b-17 that were granted pursuant to delegated authority ("prior requests").<sup>1</sup>

Rule 10b-17, with certain exceptions, requires an issuer of a class of publicly traded securities to give timely notice of certain specified actions (for example, a dividend distribution) relating to such

class of securities in accordance with Rule 10b-17(b). In particular, Rule 10b-17(b)(1)(v)(a) requires that the issuer provide notice, for a dividend or other distribution including a stock or reverse split or rights or other subscription offering, of the amount in cash to be paid or distributed per share.<sup>2</sup> Rule 10b-17(b)(1)(v)(b) requires that the issuer provide notice, also for a dividend or other distribution including a stock or reverse split or rights or other subscription offering, of the amount (in the same security) of the security outstanding immediately prior to and immediately following the dividend or distribution and the rate of the dividend or distribution.

<sup>1</sup> See, e.g., Letter from Josephine J. Tao, Assistant Director to W. John McGuire, Esq., Morgan Lewis & Bockius LLP regarding AdvisorShares Trust (December 16, 2011); Letter from Josephine J. Tao, Assistant Director to Jeremy Senderowicz, Dechert LLP regarding PIMCO Total Return Exchange-Traded Fund (March 1, 2012) and Letter from Josephine J. Tao, Assistant Director to Jack P. Drogin, Schiff Hardin regarding WisdomTree Emerging Markets Corporate Bond Fund (April 16, 2012).

<sup>2</sup> If the exact per share cash distributions cannot be given because of existing conversion rights which may be exercised during the notice period and which may affect the per share cash distribution, Rule 10b-17(b)(1)(v)(a) permits the issuer to provide a reasonable approximation of the per share distribution so long as the actual per share distribution is subsequently provided on the record date.

In adopting Rule 10b-17, the Commission stated its concern that the failure of an issuer to provide timely announcements of record dates may have misleading and deceptive effects.<sup>3</sup> For example, the Commission stated that if buyers and sellers (and their brokers) do not have knowledge that these rights may be forthcoming, they could suffer losses.<sup>4</sup> Also, the Commission found that “some issuers made belated declarations of stock splits or dividends with the apparent knowledge that this action would have a manipulative effect on the market for their securities.”<sup>5</sup> The letter represents, as had the prior requests, that the concerns that the Commission raised in adopting Rule 10b-17 will not be implicated if exemptive relief, subject to the conditions below, is granted to the Trust.

We find that it is appropriate in the public interest and is consistent with the protection of investors to grant a conditional exemption from Rule 10b-17 to any issuer of an actively managed ETF including the Trust. Specifically, other than receiving a delayed notice of the cash distributed and the shares outstanding, market participants will receive timely notification of the existence and timing of a pending distribution as the Fund will comply with all other requirements of Rule 10b-17.<sup>6</sup> Further, the provision of the information required under Rule 10b-17(b)(1)(v)(a) and (b) the day before the ex-dividend date should allow market participants time to update their systems to reflect the accurate price once trading begins on the ex-dividend date.

### Conclusion

It Is Hereby Ordered, pursuant to Rule 10b-17(b)(2), that any issuer of an actively managed ETF is exempt from the requirements of Rule 10b-17(b)(1)(v)(a) and (b) with respect to transactions in shares of the actively managed ETF, subject to the following conditions:

- The issuer must comply with Rule 10b-17 except for Rule 10b-17(b)(1)(v)(a) and (b); and
- The issuer must provide the information required by Rule 10b-17(b)(1)(v)(a) and (b) to the national

<sup>3</sup> Exchange Act Release No. 9192 (Jun. 7, 1971); 36 FR 11513 (Jun. 15, 1971).

<sup>4</sup> See *id.*

<sup>5</sup> *Id.*

<sup>6</sup> Rule 10b-17(b)(1)(v)(a) and (b). We also note that timely compliance with Rule 10b-17(b)(1)(v)(a) and (b) would be impractical in light of the nature of such ETFs. This is because it is not possible for these ETFs to accurately project ten days in advance the composition of the dividend that would be paid on a particular record date.

securities exchange upon which shares of the ETF are registered pursuant to section 12 of the Exchange Act (“Exchange”) as soon as practicable before trading begins on the ex-dividend date, but in no event later than the time when the Exchange last accepts information relating to distributions on the day before the ex-dividend date.

This exemptive relief is subject to modification or revocation at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act. In addition, persons relying on this exemption are directed to the anti-fraud and anti-manipulation provisions of the federal securities laws, particularly Section 10(b) of the Exchange Act, and Rule 10b-5 thereunder. Responsibility for compliance with these and any other applicable provisions of the federal securities laws must rest with the persons relying on this exemption. This order should not be considered a view with respect to any other question that the transactions may raise, including, but not limited to the adequacy of the disclosure concerning, and the applicability of other federal or state laws to, such transactions.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

Kevin M. O'Neill,

Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67213; File No. SR-NYSEARCA-2012-61]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NYSE Arca Rule 2.23 To Prescribe The Registered Proprietary Traders Examination (Series 56) As the Qualifying Examination for Registered Market Makers, Market Maker Authorized Traders, and Floor Brokers

June 19, 2012.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on June 13, 2012, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the

<sup>1</sup> 17 CFR 200.30-3(a)(9).

<sup>2</sup> 15 U.S.C. 78s(b)(1).

<sup>3</sup> 15 U.S.C. 78a.

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

Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii)<sup>4</sup> of the Act and Rule 19b-4(f)(6) thereunder,<sup>5</sup> which renders the proposal effective upon receipt of this filing by 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 amend NYSE Arca Rule 2.23 to prescribe the Registered Proprietary Traders Examination (Series 56) (the “Series 56 Examination”) as the qualifying examination for registered Market Makers, Market Maker Authorized Traders (“MMAT's”), and Floor Brokers. The text of the proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.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 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 the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange proposes to amend NYSE Arca Rule 2.23 to prescribe the Series 56 Examination as the qualifying examination for registered Market Makers, MMATs, and Floor Brokers.

NYSE Arca Rule 2.23 currently specifies that the successful completion of the Series 44 examination and an orientation program for such examination is required in order to register as a Market Maker or a MMAT.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>5</sup> 17 CFR 240.19b-4(f)(6).