

Tier 1 credit for ETP Holders and Market Makers. The credit is designed to attract trading interest to and promote liquidity on the Exchange. The Exchange does not propose to make any changes to the Investor Tier 2 credit.

Currently, the Investor Tier 1 allows customers to earn a credit of \$0.0032 per share for executed orders that provide liquidity to the Book for Tape A, Tape B and Tape C securities when they meet all of the following criteria on a monthly basis:

- Maintain a ratio of cancelled orders to total orders of less than 30%. In calculating this ratio, the Exchange will exclude Immediate-or-Cancel orders, which are liquidity removing in nature.

- Maintain a ratio of executed liquidity adding volume to total volume of greater than 80%.

- Firms must add liquidity that represents 0.45% or more of the total US average daily consolidated share volume ("ADV") per month (volume on days when the market closes early is excluded from the calculation of ADV).<sup>3</sup>

For example, if US ADV is 8.5 billion shares in a given month, the minimum adding ADV requirement for Investor Tier 1 would be 38.25 million adding shares a day.

The Exchange proposes to amend the Investor Tier 1 credit so that each ETP Holder and Market Maker will receive a credit of \$0.0033 per share for orders that provide liquidity to the Book when they meet the above criteria on a monthly basis.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),<sup>4</sup> in general, and Section 6(b)(4) of the Act,<sup>5</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The proposed change is equitably allocated and not unfairly discriminatory because it applies uniformly to all similarly situated ETP Holders and Market Makers that provide liquidity to the Exchange. The Exchange believes that the proposal also is reasonable and equitably allocated because it provides higher credits to ETP Holders and Market Makers that

contribute to market quality by providing higher volumes of liquidity. The Exchange believes that increasing the credits will attract additional order flow and liquidity to the Exchange.

### 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 foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)<sup>6</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>7</sup> thereunder, because it establishes a due, fee, or other charge imposed by the NYSE Arca.

At any time within 60 days of the filing of such 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2012-13 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-NYSEArca-2012-13. This file number should be included on the subject line if email 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 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-NYSEArca-2012-13 and should be submitted on or before March 8, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

[FR Doc. 2012-3671 Filed 2-15-12; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66380; File No. SR-BATS-2012-009]

### Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify Exchange Rule 11.23 Relating to Auctions of Exchange-Listed Securities

February 10, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup>

<sup>3</sup> See Securities Exchange Act Release No. 66115 (January 6, 2012), 77 FR 1969 (January 12, 2012) (SR-NYSEArca-2011-101) (notice of filing and immediate effectiveness of a proposed rule change replacing numerical thresholds with percentage thresholds for the Investor Tiers' volume requirements).

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

<sup>5</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(2).

<sup>8</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.

notice is hereby given that on February 3, 2012, BATS Exchange, Inc. (the "Exchange" or "BATS") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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 is filing with the Commission a proposal to amend Rule 11.23 entitled "Auctions" to allow orders designated to participate in the opening auction on the Exchange ("Opening Auction") to participate in an auction in the initial public offering ("IPO") for a security on the Exchange ("IPO Auction").

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 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 recently proposed and received approval of rules governing auctions conducted on the Exchange for securities listed on the Exchange ("Exchange Auctions").<sup>3</sup> Specifically, the Exchange adopted rules for conducting an Opening Auction, a closing auction on the Exchange, an IPO Auction, or an auction in the event of a halt of trading in the security. The purpose of this filing is to allow orders designated to participate in the Opening

Auction to also participate in an IPO Auction, as governed by Rule 11.23.

Specifically, the Exchange proposes to amend several portions of Rule 11.23 to allow MOO, LOO, and LLOO orders to participate in IPO Auctions. Under the proposal, MOO orders would behave like market orders participating in an IPO Auction currently behave. LOO and LLOO orders would behave like limit orders participating in an IPO Auction currently behave. In order to effect the change, the Exchange proposes to amend the definition of Eligible Auction Orders for IPO Auctions to include those orders designated to exclusively participate in the Opening Auction. The Exchange also proposes modifications to the definitions of MOO, LOO, and LLOO orders and to make clear that these Opening Auction orders that are not executed as part of the IPO Auction would be cancelled immediately following the IPO Auction, exactly as currently occurs in the Opening Auction.

##### **2. Statutory Basis**

The Exchange believes that its proposal 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(b) of the Act.<sup>4</sup> In particular, the proposal is consistent with Section 6(b)(5) of the Act,<sup>5</sup> because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The proposed rule change is also consistent with Section 11A(a)(1) of the Act<sup>6</sup> in that it seeks to assure fair competition among brokers and dealers by providing IPO Auction functionality that is consistent with that of other market centers for which market participants have already designed their trading systems.<sup>7</sup> The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity

across markets concerning the eligibility of certain order types for IPO Auctions.

#### *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.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

Because the foregoing 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 for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>9</sup>

A proposed rule change filed under 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.<sup>10</sup> However, Rule 19b-4(f)(6)(iii)<sup>11</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Exchange notes that waiver of this requirement will allow the Exchange, before any future IPO Auctions, to harmonize with other market centers its rules regarding the eligibility of orders designated for participation in the Opening Auction for participation in IPO Auctions. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the Exchange to avoid confusion among its Members and would immediately provide certainty with respect to the Exchange's rules regarding participation in IPO auctions. For this reason, the Commission

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

<sup>5</sup> 15 U.S.C. 78f(b)(5).

<sup>6</sup> 15 U.S.C. 78k-1(a)(1).

<sup>7</sup> See NYSE Arca Equities Rule 7.31(t). The Exchange is proposing to provide functionality analogous to that already available at NYSE Arca, which allows Auction-Only Orders, which consists of only MOO and LOO orders, to participate in the next auction that occurs after the order is entered. For example, a MOO or LOO order entered at NYSE Arca at any time will participate in the next occurring auction and the remaining non-executed shares are cancelled upon completion of the auction. The Exchange is proposing to apply this functionality only to IPO Auctions, while NYSE Arca applies the functionality to all auctions.

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

<sup>11</sup> *Id.*

<sup>3</sup> See Securities Exchange Act Release No. 65619 (October 25, 2011), 76 FR 67238 (October 31, 2011) (SR-BATS-2011-032).

designates the proposed rule change to be operative upon filing with the Commission.<sup>12</sup>

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-2012-009 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-2012-009. 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 10:00 a.m. and 3:00 p.m. Copies of the

<sup>12</sup> For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-BATS-2012-009 and should be submitted on or before March 8, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012-3609 Filed 2-15-12; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66381; File No. SR-NYSEArca-2012-09]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to the Listing and Trading of the PIMCO Global Advantage Inflation-Linked Bond Strategy Fund Under NYSE Arca Equities Rule 8.600

February 10, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on January 27, 2012, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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 list and trade the following under NYSE Arca Equities Rule 8.600 ("Managed Fund Shares"): PIMCO Global Advantage Inflation-Linked Bond Strategy Fund. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and [www.nyse.com](http://www.nyse.com).

<sup>13</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.

#### 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

The Exchange proposes to list and trade the following Managed Fund Shares<sup>3</sup> ("Shares") under NYSE Arca Equities Rule 8.600: PIMCO Global Advantage Inflation-Linked Bond Strategy Fund ("Fund").<sup>4</sup> The Shares will be offered by PIMCO ETF Trust ("Trust"), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.<sup>5</sup>

<sup>3</sup> A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1) ("1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

<sup>4</sup> The Commission has previously approved the listing and trading on the Exchange of other actively managed funds under Rule 8.600. See, e.g., Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR-NYSEArca-2008-31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 60460 (August 7, 2009), 74 FR 41468 (August 17, 2009) (SR-NYSEArca-2009-55) (order approving Exchange listing and trading of AdvisorShares Dent Tactical ETF); 60981 (November 10, 2009), 74 FR 59594 (November 18, 2009) (SR-NYSEArca-2009-79) (order approving Exchange listing and trading of five fixed income funds of the PIMCO ETF Trust); 61365 (January 15, 2010), 75 FR 4124 (January 26, 2010) (SR-NYSEArca-2009-114) (order approving Exchange listing and trading of Grail McDonnell Fixed Income ETFs).

<sup>5</sup> The Trust is registered under the 1940 Act. On February 14, 2011, the Trust filed with the Commission Post-Effective Amendment No. 25 under the Securities Act of 1933 (15 U.S.C. 77a) ("Securities Act") and Amendment No. 27 under