

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

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, this proposal will not substantively change either the text or the application of the rule and its supporting material.

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

Written comments were neither solicited nor received with respect to this proposal to transfer NASD Rule 2440 and its supporting Interpretive Material into the Consolidated FINRA Rulebook without any substantive changes.<sup>11</sup>

### **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>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

### **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-FINRA-2014-023 on the subject line.

#### *Paper Comments*

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

All submissions should refer to File Number SR-FINRA-2014-023. 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 such filing also will be available for inspection and copying at the principal office of FINRA. 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-FINRA-2014-023 and should be submitted on or before June 18, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-72215; File No. SR-NSX-2014-13]

### **Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Exchange Rule 11.1 to Shorten the Operating Hours for the Post-Regular Trading Hours Trading Session**

May 21, 2014.

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> notice is hereby given that on May 16, 2014, National Stock Exchange, Inc. ("NSX" or the "Exchange") 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 proposing an amendment to Rule 11.1 (Hours of Trading) to shorten the length of the Exchange's post-Regular Trading Hours Trading session from 8:00 p.m. to 5:00 p.m. Eastern Time<sup>3</sup> on days that the Exchange is open for business. The text of the proposed rule change is also available on the Exchange's Web site at [www.nsx.com](http://www.nsx.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 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 aspects of such statements.

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

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

<sup>3</sup> All time references in this filing are to Eastern Time unless otherwise noted.

<sup>11</sup> But see note 8 *supra*.

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), FINRA provided the Commission with written notice of its intention to file the proposed rule change at least five business days prior to filing the proposal with the Commission or such shorter period as designated by the Commission.

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

1. Purpose

The Exchange is proposing to amend paragraph (a) of Rule 11.1 to shorten the length of time during which the Exchange's post-Regular Trading Hours<sup>4</sup> trading session operates from 8:00 p.m. to 5:00 p.m. The Exchange submits that shortening the post-Regular Trading Hours trading session will allow the Exchange to utilize its staff and resources in a more efficient manner while continuing to provide Exchange Equity Trading Permit ("ETP") Holders<sup>5</sup> and their customers with a post-Regular Trading Hours session for one hour after the close of the Regular Trading Session.

The Exchange believes that reducing the operating time of the after-hours trading session to 5:00 p.m. is justified in view of the trading volume in the one hour immediately after the close of Regular Trading Hours as compared with the trading volume through the end of the after-hours trading session at 8:00 p.m. For calendar year 2013, NSX executed a total of 10,445,976 shares between 4:00 p.m. and 5:00 p.m., resulting in an average daily volume of 41,452 shares. By comparison, during the same period, between the hours of 5:00 p.m. and 8:00 p.m., NSX executed a total of 1,562,650 shares, or an average daily volume of 6,200 shares. These volume levels support the Exchange's conclusion that most ETP Holder trading activity in the post-Regular Trading Hours trading session occurs in the first hour, by 5:00 p.m. and that the volume level in the following three hours of the post-Regular Trading Hours trading session does not sufficiently balance against the resources and personnel that the Exchange dedicates to support the operation of the after-hours trading session beyond 5:00 p.m.

The Exchange notes that other national securities exchanges offer a longer trading session after the close of Regular Trading Hours and ETP Holders can choose to direct their orders to those exchanges if they wish to participate in an after-hours trading session extending

beyond 5:00 p.m.<sup>6</sup> Thus, the Exchange believes that its proposal will adequately address the needs of ETP Holders by providing for a one-hour post-Regular Trading Hours trading session, which trade data show is the period in which most of the trading activity is occurring, and will allow the Exchange to conserve resources and staff time that would otherwise be dedicated to supporting the after-hours trading session for a four hour period on every trading day. The Exchange believes that, given these considerations, the proposal to shorten the time period during which the post-Regular Trading Hours trading session operates is reasonable and appropriate.

2. Statutory Basis

The Exchange submits that the proposed amendment to Rule 11.1(a) furthers the purposes of Section 6(b) of the Act and, in particular, Section 6(b)(5) thereunder in that it is intended to promote just and equitable principles of trade and, in general, protect investors and the public interest; furthermore, the proposed amendment is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Specifically, the Exchange's proposal to amend Rule 11.1(a) to shorten the length of its post-Regular Trading Hours trading session from 8:00 p.m. to 5:00 p.m. on every day on which the Exchange is open for business will allow the Exchange to focus its staff and resources on the Exchange's core business, which is providing an efficient and cost-effective marketplace for trading in equity securities during Regular Trading Hours, while maintaining a facility for ETP Holders to execute trades after 4:00 p.m. Reducing the time during which the post-Regular Trading Hours trading session operates will allow the Exchange to maximize efficiencies and eliminate costs that are attendant to the longer after-hours session, but do not yield a sufficient economic return. The Exchange submits that the proposed amendment is therefore consistent with Section 6(b)(5) of the Act in that, by seeking to operate in a more efficient manner that focuses on trading during Regular Trading Hours, it will operate to promote just and equitable principles of trade and in general protect investors and the public interest.

The Exchange further submits that the proposed rule amendment will not permit unfair discrimination between customers, issuers, brokers, or dealers because the proposed change will affect all ETP Holders and market participants in the same way and to the same extent, and is therefore consistent with Section 6(b)(5) of the Act.

*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 for the furtherance of the Act. By shortening the time period during which its post-Regular Trading Hours trading session operates, the Exchange is reducing the number of equity securities exchanges offering a late trading session extending from after the close of Regular Trading Hours until 8:00 p.m. However, the Exchange does not believe that this will inappropriately burden competition in that, as proposed, it will continue to offer a post-Regular Trading Hours trading session until 5:00 p.m. and other exchanges offer an after-hours session extending until 8:00 p.m. The Exchange therefore believes that the availability of an after-hours trading facility at other exchanges will provide ETP Holders with venues to which they can direct their post-Regular Trading Hours activity after the Exchange's proposed 5:00 p.m. end time and the reduction in the time frame during which the Exchange's after-hours facility operates will not impair competition.

Additionally, the Exchange believes that, by reducing the operating time of its post-4:00 p.m. trading session and focusing its staff and resources on the Exchange's operations during core trading hours and a shortened after-hours trading session, it will achieve efficiencies that will operate to enhance its competitive position and therefore its proposal imposes no inappropriate or unnecessary 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 not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from ETP Holders or other interested parties.

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

Because the proposed rule change does not: (i) Significantly affect the

<sup>4</sup> Exchange Rule 1.5R.(1) defines "Regular Trading Hours" as the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

<sup>5</sup> Exchange Rule 1.5E.(1) defines an "ETP" as an Equity Trading Permit issued by the Exchange for effecting approved securities transactions on the Exchange's trading facilities. An ETP may be issued to a sole proprietor, partnership, corporation, limited liability company or other organization which is a registered broker or dealer pursuant to Section 15 of the Act, and which has been approved by the Exchange.

<sup>6</sup> See, e.g., NYSE Arca Equities, Inc. Rule 7.34(a)(3), which provides for a "Late Trading Session" from 1:15 p.m. Pacific Time (4:15 p.m. Eastern Time) to 5:00 p.m. Pacific Time (8:00 p.m. Eastern Time); EDGA Exchange, Inc. Rule 1.5(c), which provides for a Post-Closing Session between 4:00 p.m. and 8 p.m.

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 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<sup>7</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>8</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of the filing.<sup>9</sup> However, pursuant to Rule 19b-4(f)(6)(iii),<sup>10</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Exchange to immediately implement the proposed change to the post-Regular Trading Hours trading session, which will better align the expenses of operating the post-Regular Trading Hours trading session with the volume and revenue associated with that trading session. According to the Exchange, the proposal will streamline the operation of the Exchange and allow for more effective utilization of Exchange resources. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.<sup>11</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. If the Commission takes such action, the

Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

#### 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-NSX-2014-13 on the subject line.

##### *Paper Comments*

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

All submissions should refer to File Number SR-NSX-2014-13. 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 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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-NSX-2014-13, and should be submitted on or before June 18, 2014.

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

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72216; File No. SR-NYSEArca-2013-122]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove Proposed Rule Change, as Modified by Amendment No. 2 Thereto, Relating to the Use of Derivative Instruments by PIMCO Total Return Exchange Traded Fund

May 21, 2014.

On November 6, 2013, NYSE Arca, Inc. ("Exchange") 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 relating to the use of derivative instruments by the PIMCO Total Return Exchange Traded Fund ("Fund"). The proposed rule change was published for comment in the **Federal Register** on November 26, 2013.<sup>3</sup> On January 9, 2014, pursuant to Section 19(b)(2) of the Act,<sup>4</sup> the Commission designated a longer period within which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.<sup>5</sup> On February 24, 2014, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change.<sup>6</sup> On April 15, 2014, the Exchange submitted Amendment Nos. 1 and 2 to

<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.

<sup>3</sup> See Securities Exchange Act Release No. 70905 (Nov. 20, 2013), 78 FR 70610 ("Notice").

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> See Securities Exchange Act Release No. 71271, 79 FR 2736 (Jan. 15, 2014). The Commission determined that it was appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission designated February 24, 2014 as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

<sup>6</sup> See Securities Exchange Act Release No. 71606, 79 FR 11486 (Feb. 28, 2014).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>9</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the 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 pre-filing requirement.

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>11</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).