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JEREMY SENDEROWICZ

jeremy.senderowicz@dechert.com  
+1 212 641 5669 Direct  
+212 698 3599 Fax

June 19, 2012

Josephine J. Tao  
Assistant Director  
Office of Trading Practices and Processing  
Division of Trading and Markets  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, DC 20549

**Re: Request of PIMCO ETF Trust for Relief from Rule 10b-17 under the Securities Exchange Act of 1934 with Respect to Additional Fund**

Dear Ms. Tao:

We are writing on behalf of PIMCO ETF Trust ("Trust"). The Trust is an open-end management investment company organized on November 14, 2008 as a Delaware statutory trust.

**Summary of Previously Granted Relief**

In November 2009, the Trust began listing individual shares of the five then-existing actively-managed portfolios of the Trust ("New Series") on the NYSE Arca, Inc. ("NYSE Arca"). Prior to such time, the Trust requested relief on behalf of itself, the New Series, any national securities exchange or national securities association on or through which the exchange-traded shares of the Trust would subsequently trade (each an "Exchange"), and persons or entities engaging in transactions in New Series shares, from the staff of the Division of Trading and Markets ("Staff") with respect to Rules 101 and 102 of Regulation M and Rule 10b-17 under the Securities Exchange Act of 1934 ("Exchange Act") in connection with secondary market transactions in New Series shares and the creation or redemption of Creation Units ("PIMCO New Series Request Letter").<sup>1</sup>

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<sup>1</sup> Letter from W. John McGuire to Josephine J. Tao dated November 10, 2009 with respect to the Trust.

The Staff granted such relief in the letter addressed to W. John McGuire dated November 10, 2009 (“PIMCO New Series Response Letter”).

In September 2010, the Trust listed individual shares of the sixth actively-managed portfolio of the Trust, the PIMCO Build America Bond Strategy Fund (the “BABS Fund”) on the NYSE Arca. Prior to such time, the Trust requested relief on behalf of itself, the BABS Fund, any Exchange, and persons or entities engaging in transactions in BABS Fund shares, from the Staff with respect to Rule 10b-17 under the Exchange Act in connection with secondary market transactions in BABS Fund shares and the creation or redemption of Creation Units<sup>2</sup> (the “PIMCO BABS Fund Request Letter”). The Staff granted such relief in the letter addressed to W. John McGuire dated September 22, 2010 (“PIMCO BABS Fund Response Letter”).

In March 2012, the Trust listed individual shares of another actively-managed portfolio, the PIMCO Total Return Exchange-Traded Fund (the “Total Return ETF”) on the NYSE Arca. Concurrent with such listing, the Trust requested that the Staff extend the relief with respect to Rule 10b-17 previously granted to the New Series and the BABS Fund to the Total Return ETF<sup>3</sup> (the “PIMCO Total Return ETF Request Letter” and together with the PIMCO New Series Request Letter and the PIMCO BABS Fund Request Letter, the “PIMCO Request Letters”). The staff granted such relief in the letter addressed to Jeremy Senderowicz on March 1, 2012 (the “PIMCO Total Return ETF Response Letter” and together with the PIMCO New Series Response Letter and the PIMCO BABS Fund Response Letter, the “PIMCO Response Letters”).

All terms in this letter are as defined in the PIMCO Request Letters and PIMCO Response Letters, unless otherwise defined herein.

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<sup>2</sup> Letter from W. John McGuire to Josephine J. Tao dated September 22, 2010 with respect to the Trust.

<sup>3</sup> Letter from Jeremy Senderowicz to Josephine J. Tao dated March 1, 2012 with respect to the Trust.

### **The Additional Fund**

The Trust has listed on NYSE Arca<sup>4</sup> shares of an additional fund not named in the PIMCO Request Letters, the PIMCO Global Advantage Inflation-Linked Bond Strategy Fund (the “Additional Fund”). The investment objective of the Additional Fund is to seek total return which exceeds that of its benchmark indexes, consistent with prudent investment management. The Additional Fund seeks to achieve its investment objective by investing under normal circumstances at least 80% of its assets in inflation-linked bonds that are economically tied to at least three countries (one of which may be the United States).<sup>5</sup> The effective duration of the Additional Fund normally varies within two years (plus or minus) of the effective duration of a benchmark. The Additional Fund primarily invests in debt securities rated Baa or higher by Moody’s Investors Service, Inc., or equivalently rated by Standard & Poor’s Ratings Services or Fitch, Inc., or, if unrated, determined by PIMCO to be of comparable quality. The Additional Fund is non-diversified.

The order on the Trust’s exemptive application (File No. 812-13571) seeking relief from various provisions of the Investment Company Act of 1940, as amended (“1940 Act”) was issued by the Securities and Exchange Commission on November 10, 2009, and applied to any future series (“Future Funds”) of the Trust or of certain other affiliated open-end management companies that operate as actively managed exchange-traded funds (“ETFs”). The Additional Fund will be subject to the same conditions and representations as those made in connection with the New Series, BABS Fund and Total Return ETF. The Additional Fund is structured and operates in a manner which is substantially identical in all material respects to the New Series, BABS Fund and Total Return ETF. Therefore, the Rule 10b-17 relief requested in this letter is similar to that requested in the PIMCO Request Letters and granted in the PIMCO Response Letters.<sup>6</sup> At the time of the PIMCO New Series Request Letter, the Staff had previously issued

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<sup>4</sup> A post-effective amendment to the Trust’s registration statement on Form N-1A became effective on February 14, 2011 (and a subsequent amendment became effective on October 31, 2011).

<sup>5</sup> Inflation-linked bonds are fixed income securities that are structured to provide protection against inflation. The value of the bond’s principal or the interest income paid on the bond is adjusted to track changes in an official inflation measure.

<sup>6</sup> Letter from Josephine J. Tao to W. John McGuire dated November 10, 2009; Letter from Josephine J. Tao to W. John McGuire dated September 22, 2010.

relief from Rule 10b-17 similar to that requested herein to actively-managed exchange-traded funds (“ETFs”). The New Series, BABS Fund and Total Return ETF were not able to rely on such prior letters<sup>7</sup> because it was specific to the funds described therein.

### **Rule 10b-17**

Rule 10b-17 requires an issuer of a class of publicly-traded securities to give notice of certain specified actions (*e.g.*, dividends, stock splits, rights offerings) relating to such class of securities in accordance with Rule 10b-17(b). Specifically, Rule 10b-17(b)(1)(v)(a-b) requires such advance notice to specify (a) for cash distributions, the amount of cash to be paid or distributed per share<sup>8</sup>, and (b) for in-kind distributions, the amount of the security outstanding immediately prior to and immediately following the dividend or distribution and the rate of such dividend or distribution. Paragraph (c) of the Rule, however, states that the Rule shall not apply to redeemable securities issued by open-end investment companies and unit investment trusts registered under the 1940 Act. Except for the fact that redemption is subject to the minimum condition of tendering at least 50,000 shares (or such higher minimum amount as set forth in the registration statement), the Additional Fund is intended to function like any other open-end fund continuously offering its shares. It is in recognition of the foregoing that the Division of Investment Management issued an order permitting the Trust to issue shares with limited redeemability while still treating the Trust like any other open-end investment company.

In addition, compliance with Rule 10b-17(b)(1)(v)(a-b) would be impractical in light of the nature of the Additional Fund. This is because it is not possible for the Additional Fund to accurately project ten days in advance what dividend, if any, would be paid on a particular record date. Because of this inability to project the amount of any dividend ten days in advance of a record date, applying the timing requirements of 10b-

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<sup>7</sup> See, *e.g.*, Letter from Josephine J. Tao to Stacy L. Fuller dated April 30, 2009.

<sup>8</sup> The rule permits a reasonable approximation of the per share distribution to be provided if exact amounts cannot be given because of existing conversion rights which may be exercised during the notice period and may affect the per share cash distribution, as long as the actual per share distribution is subsequently provided on the record date.

17(b)(1)(v)(a-b) to the Additional Fund would increase the chances that the Additional Fund would mis-estimate the amount of any such dividend.<sup>9</sup>

The Additional Fund represents that it will comply with the other requirements of Rule 10b-17. The Additional Fund further represents that, as soon as practicable following the end of trading on the Exchange on the day prior to the ex-date (but not later than the last time at which the Exchange accepts such information on such date) with respect to any distribution made by the Additional Fund, the Additional Fund will provide notice to the Exchange containing the information required in Rule 10b-17(b)(1)(v)(a-b).

In the proposing release for Rule 10b-17 (the "Proposing Release")<sup>10</sup>, the Commission stated:

It has been the experience of the Commission and the securities industry that the failure of a publicly held company to provide a timely announcement of the record date with respect to these types of rights has had a misleading and deceptive effect on both the broker-dealer

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<sup>9</sup> As an investment company, the Additional Fund is required by the Internal Revenue Code to distribute at least 98% of its ordinary income and capital gains during the calendar year. If the Additional Fund declares too small a dividend, it will be charged an excise tax. If it declares too large a dividend, the excess could be considered a return of capital to investors. To avoid an over- or under-distribution of ordinary income, registered investment companies, including the Additional Fund, must estimate: (i) the amount of ordinary income to be earned during the period from the date the dividend is declared to December 31; and (ii) the number of shares that will be outstanding as of the record date. Requiring the Additional Fund to declare the amount of a dividend ten days in advance of the record date would increase the period for estimating ordinary income and the number of outstanding shares, and thus increase the risk of an over- or under-distribution. Requiring the Additional Fund to declare the amount of a dividend ten days in advance of the record date also would increase the chance that the Additional Fund would over- or under-distribute capital gains. Further, unlike ordinary income, the Additional Fund does not have the problem of estimating the aggregate amount of capital gains it will earn between declaration date and year-end, but as noted above, requiring the Additional Fund to declare the amount of a dividend ten days in advance of the record date would increase the chance that the Additional Fund would mis-estimate the number of outstanding shares. This, in turn, would increase the chance that the Additional Fund would mis-estimate the per share amount of capital gains it must distribute.

<sup>10</sup> Exchange Act Release No. 9076 (February 17, 1971).

community and the investing public. As a direct result of such failure, purchasers and their brokers may have entered into and settled securities transactions without knowledge of the accrual of such rights and were thus unable to take necessary steps to protect their interests. Further, sellers who have received the benefits of such rights as recordholders on the specified record date after having disposed of their securities, have also disposed of the cash or stock dividends or other rights received as such recordholders without knowledge of possible claims of purchasers of the underlying security to those rights....In many instances, innocent buyers and sellers have suffered losses. In addition, some issuers have 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.

We respectfully submit that none of these concerns raised by the Commission in the Proposing Release<sup>11</sup> will be implicated if the requested relief is granted. As set forth above, the Additional Fund will comply with the requirements of Rule 10b-17 except for the timing requirements for notification of the actual amounts of the distributions under Rule 10b-17(b)(1)(v)(a-b). Accordingly, market participants will receive timely notification of the existence and timing of a pending distribution, and will be able to plan their transactions in Additional Fund shares accordingly. As a result, there should be no confusion or opportunity for manipulation regarding parties' rights to receive distributions, which concerns inspired the Commission to propose and adopt Rule 10b-17. Therefore, the requested relief concerning the timing requirements of Rule 10b-17(b)(1)(v)(a-b) is consistent with the purposes underlying the adoption of Rule 10b-17 as outlined in the Proposing Release and Adopting Release. The exemption under paragraph (c) of Rule 10b-17, which covers open-end investment companies with fully redeemable shares, thus should be applicable to the Additional Fund with respect to the timing requirements of Rule 10b-17(b)(1)(v)(a-b).<sup>12</sup>

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<sup>11</sup> The foregoing concerns were largely reiterated by the Commission in the release adopting Rule 10b-17. See Exchange Act Release No. 9192 (June 7, 1971) (the "Adopting Release").

<sup>12</sup> The relief being requested is analytically consistent with the Division of Market Regulation Staff Legal Bulletin No. 9, as revised on September 10, 2010, which stated that, subject to certain conditions, actively managed exchange traded funds ("Active ETFs"), such as the Additional Fund, could rely on the exceptions in Rules 101(c)(4) and 102(d)(4) of Regulation M under the

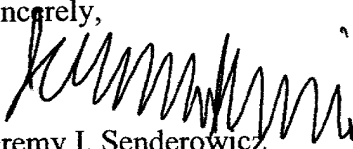
**Precedent for Request to Extend Existing Relief to Additional Fund and Other Actively Managed ETFs**

As discussed previously with members of your staff, given that the Additional Fund is structured and operates in a manner which is substantially identical in all material respects to the New Series, BABS Fund and Total Return ETF and that the form of relief requested herein is similar to the previously granted relief from Rule 10b-17, we are requesting that the Rule 10b-17 relief be extended to cover the Additional Fund by means of submitting this brief request letter, rather than a lengthy request letter restating and amending the PIMCO Request Letters. The staff permitted this method in the PIMCO BABS Fund Request and Response Letters and in the PIMCO Total Return ETF Request and Response Letters.<sup>13</sup> We are also requesting that Rule 10b-17 relief be extended to the issuers of other actively managed ETFs that are structured and operated in a manner substantially similar to the Additional Fund, New Series, BABS Fund and Total Return ETF, as the same considerations set forth above with respect to the Additional Fund are equally applicable to other such actively managed ETFs.

**Conclusion**

Based on the foregoing, the Additional Fund respectfully requests that the Commission and the Division of Trading and Markets grant the relief from Rule 10b-17 requested herein. Should you have any questions, please call me at (212) 641-5669 or Douglas P. Dick at (202) 261-3305.

Sincerely,

  
Jeremy I. Senderowicz

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Exchange Act which are only available to open-end investment companies, notwithstanding the fact that shares of Active ETFs are redeemable only in Creation Units.

<sup>13</sup> See (a) the letter from W. John McGuire, dated September 22, 2010, to Josephine J. Tao, Assistant Director, Division of Trading and Markets, and the response from Josephine J. Tao, dated September 22, 2010 and (b) the letter from Jeremy Senderowicz, dated March 1, 2012, to Josephine J. Tao, Assistant Director, Division of Trading and Markets, and the response from Josephine J. Tao, dated March 1, 2012.



cc: Bradley Gude, Securities and Exchange Commission  
J. Stephen King, Jr., Pacific Investment Management Company LLC  
Ryan Leshaw, Pacific Investment Management Company LLC  
Douglas P. Dick, Dechert LLP  
Allison Harlow Fumai, Dechert LLP  
Adam T. Teufel, Dechert LLP

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