

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55442; File No. SR-NYSEArca-2007-09)

March 12, 2007

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change Relating to the Expansion of Business Activities of Archipelago Securities, L.L.C.

I. Introduction

On January 25, 2007, the NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposal to allow Archipelago Securities, L.L.C. (“Archipelago Securities”) to act as a marketing agent on behalf of the NYSE Arca Tech 100 Index (the “Index”) and the NYSE Arca Tech 100 ETF (the “ETF”) and provide reasonable services attendant thereto. The proposed rule change was published for comment in the Federal Register on February 9, 2007.³ The Commission received no comments regarding the proposal. This order approves the proposed rule change.

II. Description of the Proposal

Archipelago Securities⁴ succeeded Wave Securities, L.L.C. (“Wave”), which was approved by the Commission to operate as a facility of the Exchange,⁵ and assumed some of Wave’s duties, including Wave’s function as the outbound router for the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 55232 (February 2, 2007), 72 FR 6308.

⁴ Archipelago Securities is a registered broker-dealer, a member of several self-regulatory organizations including the NASD, and a facility of the Exchange.

⁵ See Securities Exchange Act Release No. 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR-PCX-00-25).

Exchange. Pursuant to the order approving rule changes proposed by the Exchange in connection with the acquisition of the Exchange (formerly Pacific Exchange, Inc.) by Archipelago Holdings, Inc., now the parent company of the Exchange, any expansion of the business activities of Archipelago Securities must be approved by the Commission.⁶

NYSE Arca is now proposing to expand the business activities of Archipelago Securities to allow Archipelago Securities to act as a marketing agent on behalf of the Index and the ETF and provide reasonable services attendant thereto.⁷ In the proposal, the Exchange represents that as marketing agent for the Index and the ETF, Archipelago Securities will develop a marketing plan designed to advertise, promote, and increase public awareness of the Index and the ETF within the financial services industry and investing public (“Marketing Plan”), including: branding; promotional activities; development and design of marketing materials, collateral and media campaigns (*i.e.*, electronic media, print media, Internet, etc.); and hosting a Web site for the ETF. The Exchange also represents that this proposed marketing activity has no connection to Archipelago Securities’ facility functions.

III. Discussion

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder

⁶ See Securities Exchange Act Release No. 52497 (September 22, 2005), 70 FR 56949 (September 29, 2005) (SR-PCX-2005-90) (“Archipelago/PCX Acquisition Release”).

⁷ Recently, the Commission approved the expansion of the business activities of Archipelago Securities to include, as a facility of the Exchange, the function of routing option orders for members of the Exchange. See Securities Exchange Act Release No. 54238 (July 28, 2006), 71 FR 44758 (August 7, 2006) (SR-NYSEArca-2006-13).

applicable to a national securities exchange⁸ and, in particular, the requirements of Section 6 of the Act.⁹ Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁰ which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to remove 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. The Commission finds that the proposed rule change also furthers the objectives of Section 6(b)(8)¹¹ of the Act in that it does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Based on the Exchange's representation that this proposed marketing activity has no connection to Archipelago Securities' facility functions, the Commission believes that the proposal is consistent with the Act and the Archipelago/PCX Acquisition Release.

⁸ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation.
15 U.S.C. 78c(f).

⁹ 15 U.S.C. 78f.

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 15 U.S.C. 78f(b)(8).

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹² that the proposed rule change (SR-NYSEArca-2007-09) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Florence E. Harmon
Deputy Secretary

¹² 15 U.S.C. 78s(b)(2).

¹³ 17 CFR 200.30-3(a)(12).