

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-NYSEArca-2007-24 on the subject line.

#### *Paper Comments*

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

All submissions should refer to File Number SR-NYSEArca-2007-24. 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 inspection and copying in the Commission's Public Reference Room. 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-2007-24 and should be submitted on or before April 6, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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**BILLING CODE 8010-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-55435; File No. SR-NYSEArca-2007-23]

### **Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Fees for Round-Lot Transactions in NYSE-Listed Securities (Other Than ETFs) Routed Outside the Book**

March 9, 2007.

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> notice is hereby given that on February 26, 2007, NYSE Arca, Inc. ("NYSE Arca" or "Exchange"), through its wholly owned subsidiary NYSE Arca Equities, Inc. ("NYSE Arca Equities"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by NYSE Arca. NYSE Arca has filed the proposal pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with 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 the section of its Schedule of Fees and Charges for Exchange Services ("Fee Schedule") that applies to round-lot transactions by ETP Holders<sup>5</sup> in securities (other than exchange-traded funds, or "ETFs") listed on the New York Stock Exchange LLC ("NYSE"). While changes to the Fee Schedule pursuant to this proposal will be effective upon filing, the changes will become operative on March 1, 2007. The text of the proposed rule change is available at NYSE Arca, the Commission's Public Reference Room, and <http://www.nysearca.com>.

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

In its filing with the Commission, NYSE Arca 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. NYSE Arca has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects 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 amend the section of its Fee Schedule that applies to round-lot transactions by ETP Holders in NYSE-listed securities (other than ETFs). While changes to the Fee Schedule pursuant to this proposal will be effective upon filing, the changes will become operative on March 1, 2007.

The Fee Schedule currently provides that ETP Holders are charged \$0.001 per share for round-lot transactions in NYSE-listed securities that are routed outside the NYSE Arca Book. The Exchange proposes to amend its Fee Schedule to increase this fee to \$0.003 per share for such routed orders executed at any away market center other than the NYSE. ETP Holders will continue to be charged \$0.001 per share for round-lot transactions in NYSE-listed securities that are routed to, and executed on, the NYSE. The Exchange proposes to increase this fee in direct response to the recent fee announced by The NASDAQ Stock Market LLC ("Nasdaq") of \$0.003 per share for orders that remove liquidity from the Nasdaq Market Center for NYSE-, Amex- and regional-listed securities (excluding ETFs), effective January 1, 2007.<sup>6</sup> Specifically, the Exchange proposes this increase so that it may pass through to its ETP Holders the increased fee that Nasdaq is charging the Exchange for such ETP Holders' transactions.

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

The Exchange believes that the proposal is consistent with the provisions of Section 6(b) of the Act,<sup>7</sup> in general, and with Section 6(b)(4) of the Act,<sup>8</sup> in particular, in that the proposal

<sup>6</sup> See Securities Exchange Act Release No. 54742 (November 13, 2006), 71 FR 67179 (November 20, 2006) (SR-NASD-2006-122). See also Securities Exchange Act Release Nos. 54932 (December 13, 2006), 71 FR 76406 (December 20, 2006) (SR-NASD-2006-132); 55137 (January 19, 2007), 72 FR 3452 (January 25, 2007) (SR-NASDAQ-2006-068); and 55284 (February 13, 2007), 72 FR 8231 (February 23, 2007) (SR-NASDAQ-2007-003).

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(4).

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

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

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

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

<sup>5</sup> See NYSE Arca Equities Rule 1.1(n).

<sup>6</sup> 17 CFR 200.30-3(a)(12).

provides for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

#### *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*

Written comments on the proposed rule change were neither solicited nor received.

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

The foregoing proposed rule change is subject to Section 19(b)(3)(A)(ii) of the Act<sup>9</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder<sup>10</sup> because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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-NYSEArca-2007-23 on the subject line.

#### *Paper Comments*

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

All submissions should refer to File Number SR-NYSEArca-2007-23. 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 inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of NYSE Arca. 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-2007-23 and should be submitted on or before April 6, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-55442; File No. SR-NYSEArca-2007-09]

### **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.**

March 12, 2007.

#### **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")<sup>1</sup> and Rule

19b-4 thereunder,<sup>2</sup> 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.<sup>3</sup> The Commission received no comments regarding the proposal. This order approves the proposed rule change.

#### **II. Description of the Proposal**

Archipelago Securities<sup>4</sup> succeeded Wave Securities, L.L.C. ("Wave"), which was approved by the Commission to operate as a facility of the Exchange,<sup>5</sup> and assumed some of Wave's duties, including Wave's function as the outbound router for the 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.<sup>6</sup>

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.<sup>7</sup> 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

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

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

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

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

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

<sup>7</sup> 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).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>10</sup> 17 CFR 240.19b-4(f)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

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