

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 8-K

**CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934**

May 18, 2020
Date of report (Date of earliest event reported)

SPS COMMERCE, INC.
(Exact Name of Registrant as Specified in its Charter)

Delaware
(State of Incorporation)

001-34702
**(Commission
File Number)**

41-2015127
**(I.R.S. Employer
Identification No.)**

333 South Seventh Street, Suite 1000
Minneapolis, MN
(Address of Principal Executive Offices)

55402
(Zip Code)

(612) 435-9400
(Registrant's Telephone Number, Including Area Code)

Not Applicable
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common stock, par value \$0.001 per share	SPSC	The Nasdaq Stock Market LLC (Nasdaq Global Market)

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year

As reported below in Item 5.07, on May 18, 2020, the stockholders of SPS Commerce, Inc. (the “Company”) approved an amendment to the Company’s Eighth Amended and Restated Certificate of Incorporation (the “Certificate of Incorporation”) to increase the number of authorized shares of common stock by 55,000,000 shares (the “Amendment”). The Amendment, which was included as Proposal 4 in the Company’s proxy statement for its 2020 Annual Meeting of Stockholders filed with the Securities and Exchange Commission, became effective on May 18, 2020 upon filing of a Certificate of Amendment to the Certificate of Incorporation with the Secretary of State of the State of Delaware.

A copy of the Certificate of Amendment as filed with the Secretary of State of the State of Delaware is attached as Exhibit 3.1 to this Current Report on Form 8-K and is incorporated herein by reference. A copy of the Company’s Certificate of Incorporation, as amended and restated to reflect the Amendment, is attached as Exhibit 3.2 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 5.07 Submission of Matters to a Vote of Security Holders

On May 18, 2020, the Company held its 2020 Annual Meeting of Stockholders and the Company’s stockholders voted on the following matters:

Election of Directors

The following nominees were elected to serve as directors for a term that will last until the Company’s 2021 Annual Meeting of Stockholders or until his or her successor is duly elected and qualified. The voting with respect to the election of directors was as follows:

<u>Nominee</u>	<u>Votes For</u>	<u>Votes Against</u>	<u>Abstain</u>	<u>Broker Non-Votes</u>
Archie C. Black	29,755,601	681,022	36,713	1,507,081
Martin J. Leestma	28,901,631	1,469,752	101,953	1,507,081
James B. Ramsey	28,549,565	1,886,295	37,476	1,507,081
Marty M. Reaume	28,570,776	1,865,085	37,475	1,507,081
Tami L. Reller	29,721,998	713,873	37,465	1,507,081
Philip E. Soran	29,179,992	1,255,722	37,622	1,507,081
Sven A. Wehrwein	28,257,715	2,178,178	37,443	1,507,081

Ratification of the Selection of KPMG LLP as the Company’s Independent Auditor for 2020

The Company’s stockholders ratified the appointment of KPMG LLP as the Company’s independent registered public accounting firm for the year ending December 31, 2020 by voting as follows:

<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Broker Non-Votes</u>
31,063,892	879,133	37,392	0

Advisory Vote on Approval of the Compensation of the Company’s Named Executive Officers

The Company’s stockholders approved, on an advisory basis, the compensation of the Company’s named executive officers by voting as follows:

<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Broker Non-Votes</u>
28,765,564	1,627,953	79,819	1,507,081

Amendment to the Eighth Amended and Restated Certificate of Incorporation to increase the number of authorized shares of common stock

The Company's stockholders approved the proposal to amend the Company's Eighth Amended and Restated Certificate of Incorporation to increase the number of authorized shares of common stock by voting as follows.

<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Broker Non-Votes</u>
30,306,961	1,662,356	11,100	0

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

EXHIBIT INDEX

<u>Exhibit No.</u>	<u>Description</u>	<u>Method of Filing</u>
3.1	Certificate of Amendment to the Certificate of Incorporation, dated May 18, 2020	Filed electronically herewith
3.2	Ninth Amended and Restated Certificate of Incorporation, as amended through May 18, 2020	Filed electronically herewith
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)	Filed electronically herewith

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

SPS COMMERCE, INC.

Date: May 21, 2020

By: /s/ KIMBERLY K. NELSON

Kimberly K. Nelson

Executive Vice President and Chief Financial Officer

**STATE OF DELAWARE
CERTIFICATE OF AMENDMENT
OF CERTIFICATE OF INCORPORATION**

The corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware does hereby certify:

FIRST: That at a meeting of the Board of Directors of SPS Commerce, Inc.

resolutions were duly adopted setting forth a proposed amendment of the Certificate of Incorporation of said corporation, declaring said amendment to be advisable and calling a meeting of the stockholders of said corporation for consideration thereof. The resolution setting forth the proposed amendment is as follows:

RESOLVED, that the Certificate of Incorporation of this corporation be amended by changing the Article thereof numbered “4.1 _____” so that, as amended, said Article shall be and read as follows:

AUTHORIZED CAPITAL STOCK. The Corporation shall be authorized to issue 115,000,000 shares of capital stock, of which 110,000,000 shares shall be shares of common stock, par value \$0.001 per share (the “Common Stock”), and 5,000,000 shares shall be shares of preferred stock, par value \$0.001 per share (the “Preferred Stock”).

SECOND: That thereafter, pursuant to resolution of its Board of Directors, a special meeting of the stockholders of said corporation was duly called and held upon notice in accordance with Section 222 of the General Corporation Law of the State of Delaware at which meeting the necessary number of shares as required by statute were voted in favor of the amendment.

THIRD: That said amendment was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, said corporation has caused this certificate to be signed this 18 day of May, 2020.

By: /s/ Archie C. Black
Authorized Officer
 Title: Chief Executive Officer
 Name: Archie C. Black
Print or Type

**NINTH AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
SPS COMMERCE, INC.**

The undersigned, Archie Black, the Chief Executive Officer of SPS Commerce, Inc., a Delaware corporation, (the "*Corporation*"), hereby certifies that:

(1) The name of the Corporation is SPS Commerce, Inc. The Corporation was previously known as SPS Merger Sub, Inc. and was incorporated on April 17, 2001.

(2) The Certificate of Incorporation of this Corporation is hereby amended and restated in its entirety to read as set forth in Exhibit A attached hereto, and that such Ninth Amended and Restated Certificate of Incorporation shall supersede the Eighth Amended and Restated Certificate of Incorporation.

(3) The Ninth Amended and Restated Certificate of Incorporation attached hereto as Exhibit A has been approved by the board of directors of the Corporation pursuant to Section 141(f) of the General Corporation Law of the State of Delaware (the "*DGCL*").

(4) The Ninth Amended and Restated Certificate of Incorporation attached hereto as Exhibit A has been adopted pursuant to Sections 242 and 245 of the *DGCL*.

IN WITNESS WHEREOF, I have subscribed my name this May 19, 2020.

/s/ Archie C. Black

Archie C. Black

Chief Executive Officer

**NINTH AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
SPS COMMERCE, INC.**

**ARTICLE 1
NAME**

The name of the Corporation is SPS Commerce, Inc.

**ARTICLE 2
REGISTERED OFFICE**

The address of the Corporation's registered office in the State of Delaware is c/o Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, located in New Castle County. The name of the Corporation's registered agent for service of process at such address is The Corporation Trust Company.

**ARTICLE 3
PURPOSE**

- 3.1 **PURPOSES.** The Corporation will have general business purposes in accordance with the laws of the State of Delaware.
- 3.2 **POWERS.** The Corporation will have and may exercise all the powers granted or available under the laws of the State of Delaware and laws amendatory thereof and supplementary thereto, including all powers necessary or convenient to effect any or all of the business purposes for which the Corporation is incorporated.

**ARTICLE 4
STOCK**

- 4.1 **AUTHORIZED CAPITAL STOCK.** The Corporation shall be authorized to issue 115,000,000 shares of capital stock, of which 110,000,000 shares shall be shares of common stock, par value \$0.001 per share (the "*Common Stock*"), and 5,000,000 shares shall be shares of preferred stock, par value \$0.001 per share (the "*Preferred Stock*").
- 4.2 **COMMON STOCK.** Except as otherwise provided by law or by the resolution or resolutions adopted by the board of directors of the Corporation designating the rights, power and preferences of any series of Preferred Stock, the Common Stock shall have the exclusive right to vote for the election of directors and for all other purposes. All shares of Common Stock will be voting shares and will be entitled to one vote per share.
- 4.3 **PREFERRED STOCK RIGHTS.** Shares of Preferred Stock may be issued from time to time in one or more series. The board of directors of the Corporation is hereby authorized by resolution or resolutions to fix the voting rights, if any, designations, powers, preferences and the relative, participation, optional or other rights, if any, and the qualifications, limitations or restrictions thereof, of any unissued series of Preferred Stock; and to fix the number of shares constituting such series, and to increase or decrease the number of shares of any such series (but not below the number of shares thereof then outstanding).

ARTICLE 5
BOARD OF DIRECTORS

- 5.1 **NUMBER OF DIRECTORS.** Except as otherwise provided by the resolution or resolutions adopted by the board of directors of the Corporation designating the rights, powers and preferences of any series of Preferred Stock, the number of directors of the Corporation shall be fixed, and may be increased or decreased from time to time, exclusively by the board of directors.
- 5.2 **NO WRITTEN BALLOT.** Unless and except to the extent that the Bylaws of the Corporation shall so require, the election of directors of the Corporation need not be by written ballot.

ARTICLE 6
BY-LAWS

In furtherance and not in limitation of the powers conferred by the laws of the State of Delaware, the board of directors of the Corporation is expressly authorized to make, alter, and repeal the by-laws of the Corporation, subject to the power of the stockholders of the Corporation to alter or repeal any by-law whether adopted by them or otherwise.

ARTICLE 7
AMENDING THE CERTIFICATE OF INCORPORATION

The Corporation reserves the right at any time from time to time to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, and any other provisions authorized by the laws of the State of Delaware at the time in force may be added or inserted, in the manner now or hereafter prescribed by law. All rights, preferences and privileges of whatsoever nature conferred upon stockholders, directors or any other persons whomsoever by and pursuant to this Certificate of Incorporation in its present form or as hereafter amended are granted subject to the right reserved in this Article.

ARTICLE 8
DIRECTOR LIABILITY; INDEMNIFICATION AND INSURANCE

- 8.1 **ELIMINATION OF CERTAIN LIABILITY OF DIRECTORS.** The personal liability of the directors of the Corporation shall be eliminated to the fullest extent permitted by law. No amendment, modification or repeal of this Article, adoption of any provision in this Certificate of Incorporation, or change in the law or interpretation of the law shall adversely affect any right or protection of a director or officer of the Corporation under this Article 8 with respect to any act or omission that occurred prior to the time of such amendment, modification, repeal, adoption or change.
- 8.2 **INDEMNIFICATION.**
- (a) **Right to Indemnification.** Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "*proceeding*"), by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a director or officer of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent or in any other capacity while serving as a director, officer, employee or agent, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the General Corporation Law of the State of Delaware, as the same exists or may hereafter be amended (but, in the case of any such amendment, to the fullest extent permitted by law, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, amounts paid or to be paid in settlement, and excise taxes or penalties arising under the Employee Retirement Income Security Act of 1974) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer, employee or agent and shall

inure to the benefit of his or her heirs, executors and administrators; provided, however, that, except as provided in paragraph (b) below, the Corporation shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the board of directors of the Corporation. The right to indemnification conferred in this Article shall be a contract right and shall include the right to be paid by the Corporation the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that, if the General Corporation Law of the State of Delaware requires, the payment of such expenses incurred by a director or officer in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding, shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified under this Article or otherwise. The Corporation may, by action of the board of directors, provide indemnification to employees and agents of the Corporation with the same scope and effect as the foregoing indemnification of directors and officers.

- (b) Right of Claimant to Bring Suit. If a claim under paragraph (a) above is not paid in full by the Corporation within thirty days after a written claim has been received by the Corporation, the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the Corporation) that the claimant has not met the standards of conduct which make it permissible under the General Corporation Law of the State of Delaware for the Corporation to indemnify the claimant for the amount claimed, but the burden of proving such defense shall be on the Corporation. Neither the failure of the Corporation (including its board of directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the General Corporation Law of the State of Delaware, nor an actual determination by the Corporation (including its board of directors, independent legal counsel, or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.
- (c) Non-Exclusivity of Rights. The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Article shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation (as it may be amended from time to time), Bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

8.3 INSURANCE. The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any such expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the General Corporation Law of the State of Delaware.

ARTICLE 9 **NO CONSENT OF STOCKHOLDERS IN LIEU OF MEETING**

The stockholders of the Corporation may not act by written consent in lieu of meeting.