

information and assuring the reliability and integrity of that information. According to OPRA, these increases reflect the costs of continuing enhancements to and upgrades of the OPRA system and related exchange systems since the time these fees were last adjusted in order to enable OPRA, its participant exchanges, and its vendors to handle a greater volume of market information as a result of the continuing expansion of listed options trading and to provide a greater degree of redundancy and security in the OPRA system. Past and projected expansion of options trading reflects such factors as an increase in the number of exchanges that trade options and in the number of options classes and series traded on each exchange, and actual and anticipated growth in the number of quotes on account of the ongoing implementation of quoting in penny intervals. The fee increases also take into account the loss of revenue on account of the elimination of separate fees for access to OPRA's FCO Service.<sup>7</sup> OPRA estimates that the overall effect of the proposed increases in professional subscriber fees would be to increase revenues derived from these fees by approximately 5% in each of the three years covered by the proposal, before giving effect to the elimination of the FCO access fee upon the discontinuation of OPRA's separate FCO Service.

The text of the proposed amendment to the OPRA Plan is available at OPRA, the Commission's Public Reference Room, and <http://opradata.com>.

## II. Implementation of the OPRA Plan Amendment

Pursuant to paragraph (b)(3)(i) of Rule 608 under the Act,<sup>8</sup> OPRA designated this amendment as establishing or changing a fee or other charge collected on behalf of all of the OPRA participants in connection with access to, or use of, OPRA facilities, thereby qualifying for effectiveness upon filing. In order to give persons subject to these fees advance notice of the changes, the first of these fee changes is not proposed to be implemented until January 1, 2008.

The Commission may summarily abrogate the amendment within sixty days of its filing and require refiling and approval of the amendment by Commission order pursuant to Rule 608(b)(2) under the Act<sup>9</sup> if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors

and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act.<sup>10</sup>

## III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed OPRA Plan amendment 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 No. SR-OPRA-2007-04 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-OPRA-2007-04. 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 plan amendment that are filed with the Commission, and all written communications relating to the proposed plan amendment 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, 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 OPRA. 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-OPRA-2007-04 and should be submitted on or before January 8, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-24485 Filed 12-17-07; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56941; File No. 4-551]

**Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d-2; Order Approving and Declaring Effective a Plan for the Allocation of Regulatory Responsibilities Among the American Stock Exchange LLC, the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Incorporated, the International Securities Exchange, LLC, Financial Industry Regulatory Authority, Inc., NYSE Arca, Inc., and the Philadelphia Stock Exchange, Inc.**

December 11, 2007

On October 30, 2007, the American Stock Exchange LLC ("Amex"), the Boston Stock Exchange, Inc. ("BSE"), the Chicago Board Options Exchange, Incorporated ("CBOE"), the International Securities Exchange, LLC ("ISE"), Financial Industry Regulatory Authority, Inc. ("FINRA"), NYSE Arca, Inc. ("NYSE Arca"), and the Philadelphia Stock Exchange, Inc. ("Phlx") (collectively, "Participants") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 17(d) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 17d-2 thereunder,<sup>2</sup> a proposed plan for the allocation of regulatory responsibilities ("Plan").<sup>3</sup> The Plan was published for comment on November 9, 2007.<sup>4</sup> The Commission received no comments on the Plan. This order approves and declares effective the Plan.

<sup>11</sup> 17 CFR 200.30-3(a)(29).

<sup>1</sup> 15 U.S.C. 78q(d).

<sup>2</sup> 17 CFR 240.17d-2.

<sup>3</sup> See *infra* Section II (describing the proposed Plan).

<sup>4</sup> See Securities Exchange Act Release No. 56731 (November 1, 2007), 72 FR 63637 (File No. 4-551) ("Notice").

<sup>7</sup> See *id.*

<sup>8</sup> 17 CFR 242.608(b)(3)(i).

<sup>9</sup> 17 CFR 242.608(b)(2).

<sup>10</sup> For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change pursuant to Rule 608(b)(3) under the Act, the Commission considers the period to commence on December 11, 2007, the date on which OPRA submitted the second revised Exhibit I. See 17 CFR 242.608(b)(3).

## I. Introduction

Section 19(g)(1) of the Act,<sup>5</sup> among other things, requires every self-regulatory organization ("SRO") registered as either a national securities exchange or registered securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d)<sup>6</sup> or Section 19(g)(2)<sup>7</sup> of the Act. Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO ("common members"). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act<sup>8</sup> was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.<sup>9</sup> With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d-1 and Rule 17d-2 under the Act.<sup>10</sup> Rule 17d-1 authorizes the Commission to name a single SRO as the designated examining authority ("DEA") to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.<sup>11</sup> When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d-1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d-1 does not relieve an SRO from its obligation to examine a common

member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d-2 under the Act.<sup>12</sup> Rule 17d-2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d-2, the Commission may declare such a plan effective if, after providing for notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system, and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d-2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

## II. The Plan

The Plan is intended to reduce regulatory duplication for common members by allocating regulatory responsibility for certain options-related market surveillance matters among the Participants.<sup>13</sup> Under the Plan, a Participant will serve as the Designated Options Surveillance Regulator ("DOSR") for each common member assigned to it and will assume regulatory responsibility with respect to that common member's compliance with applicable common rules for certain accounts. As proposed, the Plan currently is limited to the review of expiring exercise declarations pursuant to the common rules listed in proposed Exhibit A to the Plan. When an SRO has been named as a common member's DOSR, all other SROs to which the common member belongs will be

relieved of regulatory responsibility for that common member, pursuant to the terms of the Plan, with respect to the applicable common rules specified in Exhibit A to the Plan. The full text of the proposed Plan and Exhibit A thereto can be found in the Notice.

## III. Discussion

The Commission finds that the proposed Plan is consistent with the factors set forth in Section 17(d) of the Act<sup>14</sup> and Rule 17d-2(c) thereunder<sup>15</sup> in that the proposed Plan is necessary or appropriate in the public interest and for the protection of investors, fosters cooperation and coordination among SROs, and removes impediments to and fosters the development of a national market system. In particular, the Commission believes that the proposed Plan is an achievement in cooperation among the Participants and should reduce regulatory duplication by allocating to the DOSR the responsibility for certain options-related market surveillance matters that would otherwise be performed by multiple Participants. Accordingly, the proposed Plan promotes efficiency by reducing costs to common members. Furthermore, because the Participants will coordinate their regulatory functions in accordance with the Plan, the Plan should promote investor protection.

The Commission notes that the Plan will be administered by a committee known as the Options Surveillance Group (the "OSG"). The Commission further notes that, under the Plan, the Participants will allocate among themselves certain regulatory responsibilities relating to compliance by their common members with such options rules of the Participants as the Participants shall determine are substantially similar and shall approve from time to time, insofar as such rules relate to market surveillance (collectively, the "Common Rules"). The Common Rules covered by the Plan are specifically listed in Exhibit A to the Plan, as may be amended by the Participants from time to time upon unanimous written agreement by the Participants. The Commission notes that each year, or more frequently if required by changes in the rules of a Participant, each Participant will submit to the other Participants, through the Chair of the OSG, an updated list of Common Rules for review, and each Participant will confirm in writing to the Chair of the OSG whether that Participant's rules listed in Exhibit A continue to qualify

<sup>5</sup> 15 U.S.C. 78s(g)(1).

<sup>6</sup> 15 U.S.C. 78q(d).

<sup>7</sup> 15 U.S.C. 78s(g)(2).

<sup>8</sup> 15 U.S.C. 78q(d)(1).

<sup>9</sup> See Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94-75, 94th Cong., 1st Session 32 (1975).

<sup>10</sup> 17 CFR 240.17d-1 and 17 CFR 240.17d-2, respectively.

<sup>11</sup> See Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

<sup>12</sup> See Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

<sup>13</sup> The proposed plan is wholly separate from the multiparty options agreement made pursuant to Rule 17d-2 by and among Amex, BSE, CBOE, ISE, NASD (n/k/a FINRA), NYSE, NYSE Arca, and Phlx involving the allocation of regulatory responsibilities with respect to common members for compliance with common rules relating to the conduct of broker-dealers of accounts for listed options or index warrants entered into on December 1, 2006, and as may be amended from time to time. See Securities Exchange Act Release Nos. 55145 (January 22, 2007), 72 FR 3882 (January 26, 2007) (File No. S7-966) and 55532 (March 26, 2007), 72 FR 15729 (April 2, 2007) (File No. S7-966).

<sup>14</sup> 15 U.S.C. 78q(d).

<sup>15</sup> 17 CFR 240.17d-2(c).

as Common Rules under the Plan. In reviewing the list of Common Rules, the Participants may add additional rules that qualify as Common Rules, will delete rules that are no longer identical or substantially similar to the Common Rules, and will confirm that the remaining rules included on Exhibit A continue to qualify as Common Rules. The Commission notes that all amendments to the Plan, excluding certain changes to Exhibits A and B, must be filed with and approved by the Commission.<sup>16</sup>

In addition, no less frequently than every two years, the OSG will allocate common members that conduct an options business among the Participants, and the Participant to which a common member is allocated will serve as the DOSR for that common member. The Plan also permits the Participants, subject to notice, to terminate the Plan or cancel their participation in the Plan. The Commission notes that a cancelling Participant will retain its regulatory responsibilities under the Plan until such time as the Commission has approved the cancellation or termination of the Plan.

The Commission also notes that the proposed Plan is wholly separate from the multiparty options agreement made pursuant to Rule 17d-2 by and among Amex, BSE, CBOE, ISE, NASD (n/k/a FINRA), NYSE, NYSE Arca, and Phlx involving the allocation of regulatory responsibilities with respect to common members for compliance with common rules relating to the conduct of broker-dealers of accounts for listed options or index warrants entered into on December 1, 2006, and as may be amended from time to time.<sup>17</sup>

#### IV. Conclusion

This Order gives effect to the Plan filed with the Commission in File No. 4-551. The Participants shall notify all members affected by the Plan of their rights and obligations under the Plan.

*It is therefore ordered*, pursuant to Section 17(d) of the Act,<sup>18</sup> that the Plan in File No. 4-551 by and between

Amex, BSE, CBOE, ISE, FINRA, NYSE Arca, and Phlx, filed pursuant to Rule 17d-2 under the Act,<sup>19</sup> is hereby approved and declared effective.

*It is further ordered* that those SRO Participants that are not the DOSR as to a particular common member are relieved of those regulatory responsibilities allocated to the common member's DOSR under the Plan.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

##### In the Matter of: Avitech Life Sciences, Inc.; Order of Suspension of Trading

December 14, 2007.

It appears to the Securities and Exchange Commission that the market for the securities of Avitech LifeSciences, Inc. ("Avitech," trading symbol AVLIF), may be reacting to manipulative forces or deceptive practices and that there is insufficient current public information about the issuer upon which an informed investment decision may be made, particularly concerning (1) the identity of and prior securities fraud judgments against persons who appear to be involved in the offer and sale of Avitech shares; (2) the financial performance and business prospects of Avitech; and (3) offerings to foreign investors and any restrictions on the resale of shares.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company is suspended for the period of 9:30 a.m. EST, December 14, 2007 through 11:59 p.m. EST, on December 28, 2007.

By the Commission.

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. 07-6095 Filed 12-14-07; 12:26 pm]

**BILLING CODE 8011-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

##### In the Matter of: Green Machine Development Corp.; Order of Suspension of Trading

December 14, 2007.

It appears to the Securities and Exchange Commission that the market for the securities of Green Machine Development Corp. ("Green Machine," trading symbol GMVP), may be reacting to manipulative forces or deceptive practices and that there is insufficient current public information about the issuer upon which an informed investment decision may be made, particularly concerning (1) the identity of and prior securities fraud judgments against persons who appear to be involved in the offer and sale of Green Machine shares; (2) the financial performance and business prospects of Green Machine; and (3) offerings to foreign investors and any restrictions on the resale of shares.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company is suspended for the period of 9:30 a.m. EST, December 14, 2007 through 11:59 p.m. EST, on December 28, 2007.

By the Commission.

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. 07-6096 Filed 12-14-07; 12:26 pm]

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#### SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

##### In the Matter of: Xiiva Holdings Inc.; Order of Suspension of Trading

December 14, 2007.

It appears to the Securities and Exchange Commission that the market for the securities of Xiiva Holdings, Inc. ("Xiiva," trading symbol XIVA), may be reacting to manipulative forces or deceptive practices and that there is insufficient current public information about the issuer upon which an informed investment decision may be made, particularly concerning (1) the identity of and prior securities fraud judgments against persons who appear to be involved in the offer and sale of

<sup>16</sup> With respect to this proposed Plan, the Participants may include an additional rule in the list of Common Rules on Exhibit A without having to file an amendment to the Plan with the Commission, as long as such rules of each Participant that are to be included in Exhibit A meet the definition of Common Rules contained in the Plan and are otherwise consistent with the allocation of regulatory responsibility pursuant to the terms of the Plan.

<sup>17</sup> See Securities Exchange Act Release Nos. 55145 (January 22, 2007), 72 FR 3882 (January 26, 2007) (File No. S7-966) (notice) and 55532 (March 26, 2007), 72 FR 15729 (April 2, 2007) (File No. S7-966) (order).

<sup>18</sup> 15 U.S.C. 78q(d).

<sup>19</sup> 17 CFR 240.17d-2.

<sup>20</sup> 17 CFR 200.30-3(a)(34).