



DIVISION OF  
CORPORATION FINANCE

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

January 5, 2017

Jos Schmitt  
President and Chief  
Executive Officer  
Aequitas NEO Exchange Inc.  
155 University Avenue  
Suite 400  
Toronto, Ontario M5H 3B7

Re: Aequitas NEO Exchange Inc.  
Incoming Letter Dated January 4, 2017

Dear Mr. Schmitt:

This letter will confirm the response of the Division of Corporation Finance to your request that the Division designate the Aequitas NEO Exchange Inc. as a “designated offshore securities market” within the meaning of Rule 902(b) of Regulation S under the Securities Act of 1933. A copy of your letter is enclosed in order to avoid having to recite or summarize the facts set forth therein. On the basis of the facts presented, we hereby so designate the Aequitas NEO Exchange Inc.

For the Commission  
by the Division of Corporation Finance  
pursuant to delegated authority,

/s/ Michele M. Anderson

Michele M. Anderson  
Associate Director (Legal)  
Division of Corporation Finance



**AEQUITAS NEO EXCHANGE INC.**

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**BY EMAIL**

Office of International Corporate Finance  
Division of Corporation Finance  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549  
USA

January 4, 2017

Dear Sirs/Mesdames:

**RE: Application for Designation of Aequitas NEO Exchange Inc. (“NEO Exchange”) as Designated Offshore Securities Market**

I submit this application on behalf of NEO Exchange for recognition as a Designated Offshore Securities Market for the purposes of Rule 902(b) of Regulation S (“**Regulation S**”) promulgated under the Securities Act of 1933, as amended (the “**Securities Act**”).

NEO Exchange is authorized to operate as an exchange across Canada, offering trading, listing and associated market data services to registered dealers, issuers and other users, as applicable. It was recognized by order of the Ontario Securities Commission (“**OSC**”) dated November 17, 2014 (the “**Recognition Order**”) to operate as an exchange in Ontario, effective March 1, 2015.<sup>1</sup> In accordance with the current exchange oversight model in Canada, the securities regulators in the other provinces and territories of Canada have issued orders exempting NEO Exchange from recognition in reliance on the oversight by the recognizing, or “lead” regulator, the OSC.<sup>2</sup> NEO Exchange is also listed as a designated stock exchange under the *Income Tax Act* (Canada) by the Minister of Finance of the Government of Canada.

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<sup>1</sup> The parent company of NEO Exchange, Aequitas Innovations Inc., a holding company, is also subject to the Recognition Order.

<sup>2</sup> NEO Exchange operates as an exchange in all provinces and territories of Canada by the Recognition Order and exemption orders from the Alberta Securities Commission (“ASC”), British Columbia Securities Commission (“BCSC”) and the Québec Autorité des marchés financiers (“AMF”) on behalf of the remaining Canadian jurisdictions.

NEO Exchange is seeking the designation as a Designated Offshore Securities Market to allow shareholders of Foreign Private Issuers for the purposes of the Securities Act to rely on the safe harbor provided by Rule 904 of Regulation S when they trade their securities through the facilities of NEO Exchange.

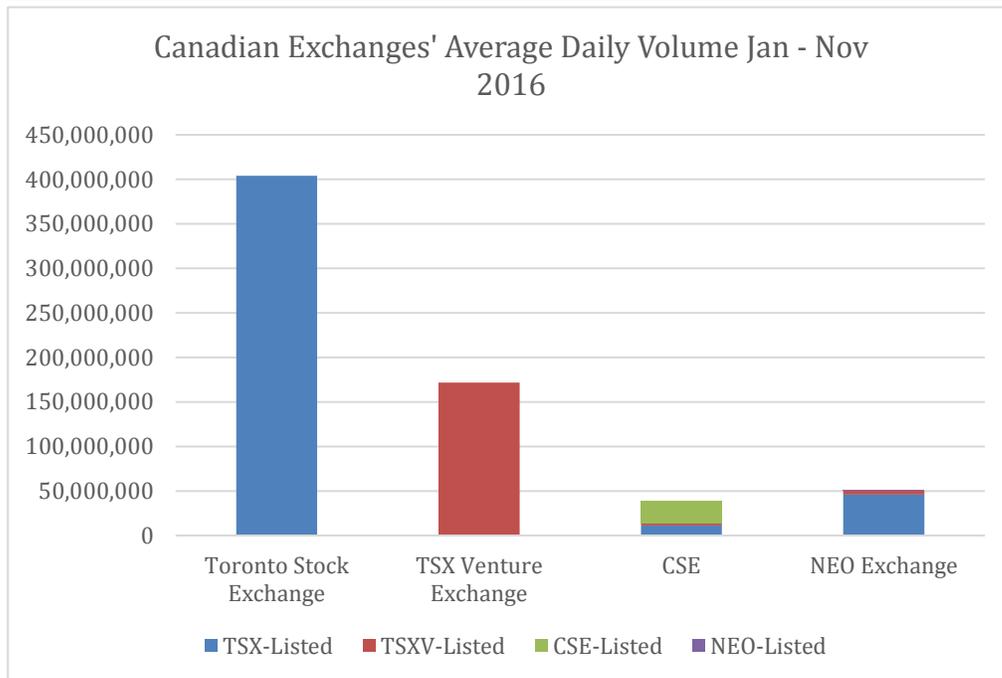
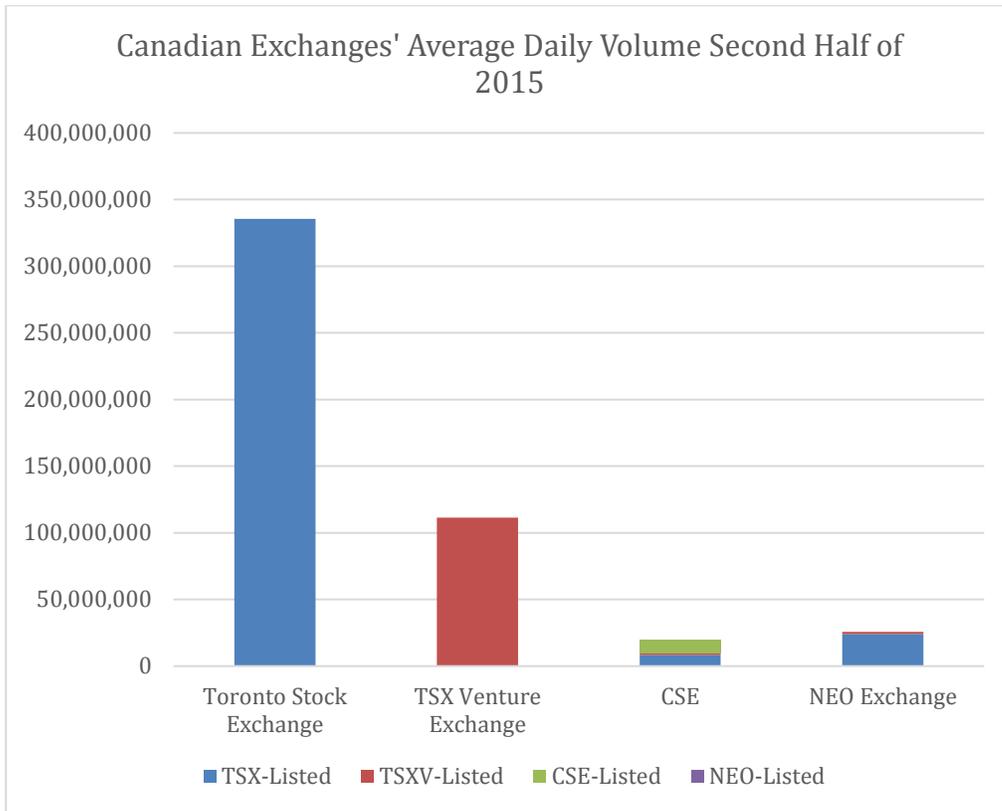
The designation of the NEO Exchange as a Designated Offshore Securities Market is of great significance to our organization and would have a positive impact on the capital markets in Canada in general:

- the NEO Exchange was established to provide investors and issuers with a competitive and innovative stock exchange that is driven by their best interests - the principles underpinning the NEO Exchange's value proposition are fairness, liquidity, transparency and efficiency;
- the NEO Exchange currently trades a NEO Listed Security (see below) and all Toronto Stock Exchange ("**TSX**") and TSX Venture Exchange ("**TSX-V**") listed securities, and has already built a market share in volume and value, among all other Canadian marketplaces, that is generally in excess of 5% - please see the charts on the next page that compare average daily traded volume on each of the stock exchanges in Canada, with the securities subdivided by listing exchange for the second half of 2015 (post launch) and January-November 2016<sup>3</sup>;
- NEO Exchange market data is available through all established data distributors domestically and internationally;
- on March 22, 2016, the NEO Exchange welcomed its first listed security ("**NEO Listed Security**"), an Invesco PowerShares ETF, and expects additional ETFs to become NEO Listed Securities within the next few months<sup>4</sup>;
- the NEO Exchange is also building a pipeline of corporate issuers considering to become NEO Listed Securities, who expressed the importance of being able to rely on the safe harbor provided by Rule 904 of Regulation S; and
- TSX, TSX-V and CNSX Markets Inc., now operating as the Canadian Securities Exchange (the "**CSE**"), are all Designated Offshore Securities Markets for the purposes of Rule 902(b) of Regulation S.

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<sup>3</sup> Please note that TSX and TSX-V only trade their own listed securities, while CSE and NEO Exchange trade their own listings as well as TSX's and TSX-V's.

<sup>4</sup> BlackRock Asset Management announced on September 13, 2016, that they would move a total of 12 iShares ETFs from TSX to NEO Exchange during Q4 2016, a move that has been delayed to early 2017 for internal operational reasons. Those ETFs represent close to \$1 billion in assets under management, which is approximately 1% of the total Canadian ETF market. We are in discussion with various other ETF issuers and expect a number of additional announcements before the end of January.



Without recognition as a Designated Offshore Securities Market, the NEO Exchange is placed at a material disadvantage to the TSX, the TSX-V and the CSE and is restricted in its ability to expand the services and benefits to investors and issuers that are inherent to its unique value proposition.

The application for the designation of the NEO Exchange as a Designated Offshore Securities Market is deserving on its merits. The U.S. Securities and Exchange Commission (“**SEC**”) has previously designated all other Canadian exchanges, including the TSX, the TSX-V and the CSE as Designated Offshore Securities Markets; and all of which except the TSX-V (which is regulated by the ASC and the BCSC), together with the NEO Exchange:

- (a) are recognized and regulated by the same governing body<sup>5</sup>;
- (b) are associated with the same generally recognized community of brokers, dealers, banks, or other professional intermediaries with an established operating history;
- (c) are subject to the rules and regulations promulgated under the *Securities Act* (Ontario) (the “**OSA**”);
- (d) report securities transactions on a regular basis to the same self-regulatory body;
- (e) operate a similar system for exchange of price quotations through common communications media; and
- (f) use the same organized clearance and settlement system.

I respectfully submit that the NEO Exchange has the attributes specified in Rule 902(b)(2) of Regulation S considered by the SEC in determining whether to designate an offshore securities market; and that by designating the NEO Exchange as a Designated Offshore Securities Market, the SEC will foster fair and efficient capital markets and confidence in the integrity of Canada’s capital markets by treating all recognized Canadian exchanges in the same manner.

#### **A. Organization under foreign law**

NEO Exchange was incorporated under the *Canada Business Corporations Act* (“**CBCA**”) on January 17, 2014 and is a wholly-owned subsidiary of Aequitas Innovations Inc. (“**Aequitas**”). Aequitas was incorporated under the CBCA on May 30, 2013 and is a holding company with no operational responsibilities.

NEO Exchange has 45 employees. Its executive officers have extensive marketplace and/or large financial institution experience and the members of its legal and regulatory team have a combined 14 years of regulatory experience as staff at the OSC. The Chair of the board of directors of NEO Exchange is a Governor of the Financial Industry Regulatory Authority (“**FINRA**”) in the United States.

NEO Exchange was founded by a diverse group of prominent investors that supported the concept that it was time to re-focus on the original purpose of an exchange, i.e., the bringing together of investors looking to build wealth with businesses looking to raise capital for growth, so that new wealth and jobs can be created. Shortly before launch in March, 2015, a further round of investment brought in additional like-minded investors. To ensure that the governance of the exchange continues to be aligned with the mission

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<sup>5</sup> As indicated above, the NEO Exchange, the TSX and the CSE are regulated by the OSC and the TSX-V is regulated by the ASC and the BCSC. Each of the OSC, ASC and BCSC are members of the Canadian Securities Administrators (the “**CSA**”). The CSA comprises securities regulators from each of the 10 provinces and 3 territories in Canada.

statement of putting investors and issuers first, a majority of its ownership is held by buy-side firms (institutional investors) and issuers. Current shareholders include:

#### Institutional Investors (Buy-side)

- CI Investments Inc., a subsidiary of CI Financial Corp. a wealth management firm and one of Canada's largest investment fund companies
- bcIMC, a British Columbia Crown Corporation providing investment management services to British Columbia's public sector and one of Canada's largest asset managers
- IGM Financial Inc., one of Canada's largest managers and distributors of mutual funds and managed asset products (its companies include Investors Group Inc. and Mackenzie Financial Corporation)
- Invesco Canada, part of Invesco Ltd., a leading independent investment management firm and one of the world's foremost asset management companies, which is publicly traded on the NYSE and an S&P constituent (NYSE: IVZ)
- OMERS OCM Investments II Inc., an investment vehicle of the Ontario Municipal Employees Retirement System, one of Canada's largest pension funds
- PSP Public Markets Inc., a subsidiary of PSP Investments, one of Canada's largest pension investment managers

#### Investment Dealers (Sell-side)

- Barclays Corporation Limited, a Canadian investment dealer that is a subsidiary of Barclays PLC, London UK
- ITG Canada Inc., an independent Canadian investment dealer and financial technology provider
- RBC Dominion Securities Inc., the full service brokerage arm of the Royal Bank of Canada that is one of the largest investment dealers in Canada

#### Publicly listed companies

- BCE Inc., Canada's largest communications company

NEO offers an innovative trading venue and a value-added listing venue for companies and investment products, and provides a number of innovative benefits specifically designed for NEO-Listed Securities. These benefits include a unique liquidity program with designated market makers to provide real and reliable liquidity; free real-time market data to provide enhanced visibility and transparency globally; and a streamlined process to minimize the cost to and the burden on those who list on NEO, both during the initial listing phase and on an ongoing basis.

#### **B. Association with a generally recognized community of brokers, dealers, banks, or other professional intermediaries with an established operating history**

The NEO Exchange has established appropriate written standards for access to its trading and related services, including requirements that NEO Exchange members ("**Members**") are appropriately registered

under securities legislation in Canada<sup>6</sup> and are dealer members of the Investment Industry Regulatory Organization of Canada (“**IIROC**”). Specifically, a dealer is eligible to become a Member of NEO Exchange if it is a dealer member in good standing of IIROC, i.e., it has not resigned or been suspended. Dealers who are members of IIROC may become Members by applying for membership and signing the NEO Exchange member agreement (“**Member Agreement**”),<sup>7</sup> which includes the following key terms: the incorporation of the Trading Policies (see below) by reference; a description of the services provided (access to Exchange Systems, and confirmations of orders and trades) and the Exchange’s rights relating to changes thereto; fees; representations and warranties of the member; certification that it has appropriate policies and procedures to meet Exchange requirements; responsibility for all trades and their settlement; acknowledgement that the Exchange may, for regulatory reasons, suspend or terminate rights under the agreement; rights regarding market data; protection of confidential information; limitation of liability; indemnification; and term and termination. Once approved, a Member must comply with all of NEO Exchange requirements as set out in the Member Agreement and the trading policies of the exchange (“**Trading Policies**”).<sup>8</sup> The Trading Policies are the “rules of engagement” when trading on the NEO Exchange, and include: the authority of the exchange; qualification and ongoing membership requirements; requirements for access to trading; a description of the trading books’ features and functionality (both exchange-wide, such as in respect of cancellations, and per trading book, such as special order types); provisions relating to market making; order protection rule compliance; clearing and settlement obligations; application of UMIR (see below); and appeals.

IIROC is a recognized self-regulatory organization (“**SRO**”) that performs both member and market regulation for the Canadian equity and debt markets. It is the functional equivalent of FINRA and it evolved from various exchanges’ regulatory divisions, but is now an independent SRO. IIROC is responsible for setting and enforcing rules regarding the proficiency, business and financial conduct of dealer firms and their registered employees and for setting and enforcing market integrity rules that govern trading activity on Canadian equity marketplaces, which are called the Universal Market Integrity Rules (“**UMIR**”). UMIR cover prohibitions against abusive trading and frontrunning, as well as detailed requirements relating to best execution, order entry and order exposure (i.e. which orders must be immediately displayed on marketplaces and rules for dark trading); trading requirements such as supervision, proficiency, liability for all orders and trades, cancelled trades, and direct electronic access and routing arrangements; obligations re: client-principal trading; trading halts, delays and suspensions; and compliance requirements. There are limited provisions impacting marketplaces directly, which have a coordination function – they relate, for example, to assignment of security symbols and marketplace and participant identifiers, and clock synchronization.

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<sup>6</sup> Dealers must be registered in all CSA jurisdictions in which they carry on business. Registration as an “investment dealer” requires registration by the applicable provincial and/or territorial regulator(s), such as the Ontario Securities Commission, as well as acceptance into membership with an SRO (IIROC). There is a streamlined, coordinated process for dealer registration, involving the CSA’s National Registration Database and a set of CSA rules that set out requirements and reliance on SRO rules. Some Canadian jurisdictions have delegated their registration powers to IIROC (BC, Alberta, Saskatchewan, New Brunswick and Newfoundland and Labrador) and others carry out their own registration process and coordinate with IIROC before relying on it to oversee the investment dealer as an SRO member.

<sup>7</sup> The Member Agreement can be found at <https://aequitasneoexchange.com/en/trading/how-to-access/trading-agreements/>.

<sup>8</sup> The Trading Policies can be found at <https://aequitasneoexchange.com/en/trading/how-to-access/trading-policies-hours/>.

Similar to the TSX, the TSX-V and the CSE, the NEO Exchange has entered into a regulation services agreement (“**Regulation Services Agreement**”) with IIROC so that IIROC will perform, on its behalf, market regulation services and certain listed issuer services (currently the latter are limited to timely disclosure services – please see the note below). The Regulation Services Agreement was provided to the OSC as part of the exchange’s recognition application and any changes are subject to its oversight. More specifically, in the same manner as all the other recognized securities exchanges in Canada, NEO Exchange has outsourced its market regulation function (i.e. oversight of the trading that occurs on the exchange) and the monitoring of its timely disclosure policy to IIROC, the latter including the review of press releases, imposition of regulatory trading halts, and general monitoring the issuer’s ongoing disclosure to ensure compliance (please see the paragraph below for a general description of the timely disclosure policy). As a result, IIROC monitors the trading of securities on and across all exchanges and alternative trading systems to ensure compliance with the above-mentioned UMIR. IIROC investigates possible misconduct by its dealer firms and other market participants and can bring disciplinary proceedings which may result in penalties including fines, suspensions and permanent bans or terminations for individuals and firms.<sup>9</sup> Where applicable, and in exercising its enforcement powers as a self-regulatory organization, IIROC will refer matters involving criminal activity to federal, provincial or municipal police in Canada as part of its enforcement process.

The NEO Exchange has also established listing standards that are equivalent to or more onerous than other Canadian exchanges’ senior listing standards, which are set out in a listing requirements manual (the “**Listing Manual**”)<sup>10</sup>. Part V of the Listing Manual sets out the NEO Exchange’s timely disclosure policy, under which NEO-listed issuers are required to make immediate public disclosure of all material information (any information relating to an issuer’s business and affairs that results in or would reasonably result in a significant change to the market price of its securities). This policy is substantively similar the timely disclosure policies of other recognized exchanges in Canada.

The NEO Exchange applies listing standards that encourage issuer readiness for a public listing. The NEO Exchange approach to listing is based on the following principles:

- clear, objective standards that provide consistent and efficient decision making;
- initial listing standards that are equivalent to or more onerous than current Canadian senior listing standards;
- separate listing standards for general (corporate) issuers, closed-end funds, exchange-traded funds and other exchange traded products to acknowledge the different nature and needs of the various types of issuers;
- advance notice requirements of material transactions such as issuer bids, related party transactions and certain business combinations (including acquisitions) or where there is participation of a related party to the issuer (this includes control persons of the issuer or where the related party of an issuer has over 10% of the issuer’s market capitalization on a pre-transactional basis) to provide NEO Exchange with the opportunity to confirm compliance with

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<sup>9</sup> IIROC also conducts timely surveillance of all over-the-counter fixed income trading conducted by its dealer members ensuring market integrity and compliance with applicable dealer member rules.

<sup>10</sup> The Listing Manual can be found at <https://aequitasneoexchange.com/en/listings/listing-manual-forms/>.

the NEO Exchange requirements and review for public interest (market integrity) concerns and, in limited circumstances, approval of transactions; and

- enhanced corporate governance requirements generally, and shareholder approval requirements for threshold transactions or where there is significant related person participation.

Issuers that meet the criteria set out in the Listing Manual can apply to NEO Exchange to qualify their securities for listing, and must thereafter comply with the requirements set out in the Listing Manual. These listing standards are distinct for corporate issuers and issuers of exchange traded funds, closed end funds and other exchange traded products. The listing standards for each category of issuer, which are comparable to the TSX's (considered "senior" listing standards in Canada) and to those of US exchanges for small cap issues, and are as follows:

For corporate issuers the following are the main listing standards that must be met:

- Public float of 1,000,000 securities together with a minimum of 300 public security holders each holding at least a board lot.
- Minimum price of \$2 per security.
- Adequate working capital to carry on business and an appropriate capital structure.

Further, the requirements of at least one of the following categories of standards must be met:

<b>Equity Standard</b>	<b>Net Income Standard</b>	<b>Market Value Standard</b>
<ul style="list-style-type: none"> <li>• Shareholders' equity of \$5,000,000</li> </ul>	<ul style="list-style-type: none"> <li>• Shareholders' equity of \$4,000,000</li> </ul>	<ul style="list-style-type: none"> <li>• Shareholders' equity of \$5,000,000</li> </ul>
<ul style="list-style-type: none"> <li>• Market value of public float of \$15,000,000</li> </ul>	<ul style="list-style-type: none"> <li>• Market value of public float of \$5,000,000</li> </ul>	<ul style="list-style-type: none"> <li>• Market value of securities listed (or to be listed) on the exchange, another Canadian marketplace or an accepted foreign exchange of \$50,000,000</li> </ul>
<ul style="list-style-type: none"> <li>• An operating history of at least 2 years</li> </ul>	<ul style="list-style-type: none"> <li>• Net income from continuing operations in the issuer's last fiscal year, or in two of its last three years, of at least \$750,000</li> </ul>	<ul style="list-style-type: none"> <li>• Market value of public float of \$15,000,000</li> </ul>

For issuers of exchange traded funds, closed end funds and exchange traded products (**ETP**), the following listing standards must be met:

	<b>Exchange Traded Fund</b>	<b>Closed End Fund</b>	<b>Exchange Traded Product</b>
<b>Minimum Distribution</b>	<ul style="list-style-type: none"> <li>At least 100,000 securities outstanding prior to the commencement of trading on the exchange</li> </ul>	<ul style="list-style-type: none"> <li>public float of 1,000,000 securities together with a minimum of 300 public security holders each holding at least a board lot</li> </ul>	<ul style="list-style-type: none"> <li>public float of 1,000,000 securities together with a minimum of 300 public security holders each holding at least a board lot</li> </ul>
<b>Net Asset Value</b>	<ul style="list-style-type: none"> <li>A net asset value of at least \$2,000,000, unless it is an ETF with a net asset value of at least \$1,000,000 and is part of a group of investment funds that are managed by the same investment fund manager, all of which are listed or are to be listed on the exchange or another Canadian exchange, and the group has a net asset value of at least \$10,000,000</li> </ul>	<ul style="list-style-type: none"> <li>A net asset value of at least \$20,000,000</li> </ul>	<ul style="list-style-type: none"> <li>A minimum public float value of \$4,000,000</li> </ul>
<b>Calculation of Net Asset Value</b>	<ul style="list-style-type: none"> <li>The issuer must provide the exchange with a representation that the net asset value will be calculated and made publicly available each business day</li> </ul>	<ul style="list-style-type: none"> <li>The issuer must provide the exchange with a representation that the net asset value will be calculated and made publicly available each business day</li> </ul>	<ul style="list-style-type: none"> <li>Where appropriate, the issuer must provide the exchange with a representation that the net asset value will be calculated and made publicly available each business day</li> </ul>
<b>Assets of ETP Issuer</b>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>Assets in excess of \$100 million</li> </ul>
<b>Other</b>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>The ETP issuer must: <ul style="list-style-type: none"> <li>- be, or be an affiliate of, a listed issuer, other listed issuer or foreign issuer, or</li> </ul> </li> </ul>

			- be a trust company, asset manager or financial institution with substantial capital, surplus and experience
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The Listing Manual also sets out various requirements that NEO Exchange staff monitor for issuer compliance and, where applicable, situations where NEO Exchange listing staff may discipline, suspend or delist issuers. This function is part of the gatekeeping function of NEO Exchange and supports the regulatory oversight of public issuers by the OSC and other Canadian provincial regulators.

### C. Oversight by a governmental or self-regulatory body

As indicated above, the NEO Exchange is recognized as an exchange by the OSC and operates under exemptions from recognition as an exchange, in reliance on the OSC as the lead regulator, in all other provinces and territories of Canada.

The OSC is the regulatory body responsible for overseeing the capital markets in Ontario. This includes the oversight, as lead regulator, of the NEO Exchange, the TSX<sup>11</sup> and the CSE, as well as the oversight of 1,400 public companies; 3,700 investment fund issuers; 1,300 registered firms; and 66,000 registered individuals in Ontario. The OSC coordinates its oversight of NEO Exchange with the other provincial regulators in Canada in accordance with a Memorandum of Understanding Respecting the Oversight of Exchanges and Quotation and Trade Reporting Systems<sup>12</sup> (the “MOU”), that establishes the framework for the lead regulator model for regulating exchanges<sup>13</sup>.

The OSC also administers and enforces the OSA and the *Commodity Futures Act* (Ontario) and certain provisions of the *Business Corporations Act* (Ontario). Similar to the SEC, the OSC is responsible for using its regulatory powers to:

- (a) to provide protection to investors from unfair, improper or fraudulent practices; and
- (b) to foster fair and efficient capital markets and confidence in their integrity.

In exercising its regulatory responsibilities, the OSC achieves responsive regulation by imposing:

- (a) requirements for timely, accurate and efficient disclosure of information;
- (b) restrictions on fraudulent and unfair market practices and procedures; and

<sup>11</sup> The lead securities regulators for the TSX-V are the BCSC and the ASC.

<sup>12</sup> Quotation and trade reporting systems, are a category of marketplace originally set up to deal with regulated dealer markets, such as NASDAQ, before it became an exchange.

<sup>13</sup> The MOU can be found at [http://www.osc.gov.on.ca/documents/en/Securities/mou\\_20091002\\_nca-amd-mou-qtrs.pdf](http://www.osc.gov.on.ca/documents/en/Securities/mou_20091002_nca-amd-mou-qtrs.pdf).

- (c) requirements for the maintenance of high standards of fairness and business conduct to ensure honest and responsible conduct by market participants.

The OSC's oversight of NEO Exchange, the TSX and the CSE includes:

- reviewing and prior approval of all new rules, rule amendments, significant operational changes and fee changes;
- reviewing periodic and quarterly filings to the OSC and other provincial regulators in Canada in accordance with the requirements under National Instrument 21-101 – Marketplace Operations (“**NI 21-101**”) (discussed in greater detail below);
- periodic on-site compliance reviews by OSC staff;
- quarterly update meetings with OSC staff; and
- reviewing incident reporting and the annual independent systems review report required under the Recognition Order and NI 21-101, similar to the Automation Review Programme (“**ARP**”) that was developed by the SEC for dealing with SROs' automated systems<sup>14</sup>.

The NEO Exchange board of directors has established a Regulatory Oversight Committee (“**ROC**”) in accordance with the Recognition Order comprising three directors, the majority of which are independent directors. One of the ROC members, coincidentally, is also currently a Governor of FINRA. The ROC's mandate is to oversee the performance of NEO Exchange's regulatory responsibilities, review changes in the NEO Exchange Trading Policies and Listing Manual, as well as oversee the management of conflicts of interest.

#### **D. Oversight standards set by an existing body of law**

As a recognized exchange, the NEO Exchange is regulated by the OSC and subject to the rules and regulations promulgated under the OSA, including NI 21-101. The OSA and NI 21-101, as applicable, impose obligations on all recognized exchanges in Canada, including the NEO Exchange, the TSX, the TSX-V and the CSE. These obligations regulate the operations and the standards of practice and business conduct of its members and their representatives in accordance with its by-laws, rules, regulations, policies, procedures, interpretations and practises respectively in respect of trading, listing and the dissemination of market data. Additionally, as noted above, trading on NEO Exchange and that on all Canadian exchanges including the TSX, the TSX-V and the CSE, as well as on alternative trading systems is regulated by IIROC.

As required by its Recognition Order, the NEO Exchange must file all rules and seek prior approval of all material rule changes from the OSC and in certain instances, must obtain confirmation of readiness from IIROC (where it impacts IIROC's trading surveillance). The NEO Exchange must also file any non-material amendment to the information provided in its application for recognition as an exchange (“**Form 21-101F1**”), by the earlier of (i) the close of business on the 10<sup>th</sup> day after the end of the month in which the

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<sup>14</sup> The SEC's ARP framework, to deal with the risks associated with automated systems, was composed of: (a) an independent systems review component; (b) periodic reporting on material systems changes; and (c) notifications of significant systems problems.

change was made, and (ii) if applicable, the time the marketplace discloses the change publicly; or discloses that no amendments were made.

While the Trading Policies include a number of provisions relating to how the NEO Exchange deals with orders (see section F), there may be additional supporting information filed in the Form 21-101F1. For significant changes to its structure as previously filed in the Form, including procedures governing how orders are entered, displayed (if applicable), executed, how they interact, are cleared and settled; changes to order types and changes in the fees and fee model, and any other amendment to the information provided in its Form 21-101F1, as applicable, the exchange must file for approval at least 45 days (7 days for fee changes) prior to implementing the change.

The NEO Exchange must also file an updated Form 21-101F1 within 30 days after the end of each calendar year and, each year, the chief executive officer of the NEO Exchange must, in accordance with NI 21-101, certify in writing, within 30 days after the end of each calendar year that the information contained in its current Form 21-101F1, including the description of its operations, is true, correct, and complete and that the NEO Exchange is operating as described in the form. This certification is filed with the OSC. The NEO Exchange must also file annual audited financial statements within 90 days after the end of its financial year. As noted above, under the Recognition Order and NI 21-101 the NEO Exchange also annually engages a qualified party – which to date has been an audit firm, but could also be a consultant with sufficient proficiency – to conduct an independent systems review and prepare a report on the exchange's compliance with certain system requirements. Systems that must be included in the review are all those operated by or on behalf of the marketplace that support order entry, order routing, execution, trade reporting, trade comparison, data feeds, market surveillance and trade clearing.

#### **E. Reporting of securities transactions on a regular basis to a governmental or self-regulatory body**

As required of all marketplaces trading securities in Canada, including the other recognized exchanges, all NEO Exchange order and trade information must be provided to IIROC for its surveillance system via a FIX-based real-time regulatory data feed. (The Financial Information eXchange (FIX) protocol is a standard messaging format used to communicate trading information between counterparties in the financial services industry. We use the FIX protocol to transmit order and trade information to IIROC.)

Under the Regulation Services Agreement the order and trade information must be provided in accordance with IIROC's specifications and NEO Exchange must provide advance notice of any changes to its products or services and not make such changes until it receives IIROC's confirmation of readiness to ensure the IIROC is at all times in a position to monitor the trading. If the NEO Exchange takes any action to halt trading, a report will be submitted to IIROC, and in most cases must obtain IIROC's prior approval. Similarly, the NEO Exchange will immediately halt trading of a security at the instruction of IIROC.

Additionally, as a recognized exchange, the NEO Exchange is required by NI 21-101 to file a quarterly report with the OSC of its marketplace activities within 30 days after the end of each calendar quarter. Such reporting includes, but is not limited to, information pertaining to securities traded on NEO Exchange such as:

- general trading activity of exchange-listed equity and fixed income securities, as applicable;
- each type of equity or fixed income security traded or cross executed on the NEO Exchange for trades executed at the opening of the market, during regular trading and after hours during the quarter;
- the 10 most traded securities on the NEO Exchange (based on the volume of securities traded) for trades executed at the opening of the market, during regular trading and after hours during the quarter; and
- the top 10 marketplace participants (based on the volume of securities traded).

## **F. A system for exchange of price quotations through common communications media**

The NEO Exchange uses innovative technology and market structure solutions to address current transparency, liquidity and fairness issues in Canadian capital markets. The technology solution is a state-of-the-art trading software and infrastructure solution, powered by Millennium Information technologies (“**MillenniumIT**”), a leading trading technology provider to global capital markets. MillenniumIT’s trading software and infrastructure are used by exchanges around the world, including the London Stock Exchange, Borsa Italiana, Oslo Bors, and the Johannesburg Stock Exchange, all of which are recognized as Designated Offshore Securities Markets for the purposes of Rule 902(b) of Regulation S.

The NEO Exchange market structure solutions provide tools to protect market participants from predatory trading strategies. NEO Listed Securities and all securities listed on TSX and TSX-V can be traded on the NEO Exchange’s two transparent trading books<sup>15</sup>:

- Lit Book; and
- NEO Book™.

Each trading book is designed to provide innovative and comprehensive features that promote market integrity, fairness and liquidity. The trading books’ features and functionality, including how orders are entered, displayed (if applicable) and executed, and how they interact (such as priorities for execution) and are cleared and settled, are described in the Trading Policies, as supplemented by a description of overall marketplace operation in the Form 21-101F1. A summary of these features and functionality are described below.

The Lit Book aims to level the playing field between those who have a speed advantage and those who do not, leveraging an order matching model that prioritizes the resting orders of natural investors i.e. retail investors and institutional investors. The Lit Book offers both pre-trade and post-trade transparency with a “maker-taker” fee model (i.e., there is a rebate when posting orders and fee for taking liquidity). It supports continuous trading from 9:30am to 4:00pm and an opening auction for NEO Listed Securities, and continuous trading from 8:00am to 5:00pm for TSX and TSX-V listed securities. The opening auction is a fully transparent auction with continuous publication of the calculated opening price per security.

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<sup>15</sup> To facilitate the common practice in Canada of posting intentional (“upstairs”) crosses in a streamlined way, there is also a Crossing Facility (described further below).

The NEO Book™ also focuses on leveling the playing field and fostering reliable and sizeable liquidity provision. The NEO Book™ also offers both pre-trade and post-trade transparency with a “taker-maker” fee model (i.e., there is a fee when posting orders and a rebate for taking liquidity). It supports continuous trading from 8:00am to 5:00pm with an order matching model that also considers size when prioritizing executions. Considering size in the matching priority favours liquidity providers looking to post sizable orders, which ultimately benefits liquidity seeking investors. The NEO Book™ also leverages a technical speed bump imposed on participants with a speed advantage and looking to take liquidity. The speed bump provides protection for well-intended liquidity providers from predatory trading strategies. The NEO Book™ provides a market-by-price data feed with all volume aggregated per price level, seeking to minimize information leakage. Pegged mid-point orders are also supported in the NEO Book™ and are included in the aggregate volume displayed in the market-by-price data feed.

To support a fair and orderly market and achieve reasonable price continuity and liquidity in both the Lit Book and the NEO Book™, the NEO Exchange assigns Designated Market Makers (“**DMMs**”) to NEO Listed Securities and securities listed on the TSX and the TSX-V that are traded on the NEO Exchange. Across both NEO Exchange trading books and for their assigned securities, DMMs are responsible for:

- facilitating the opening, delayed opening and resumption of trading following a halt for assigned securities;
- two-sided continuous quoting with size and spread requirements over a proportionate assignment of liquid and illiquid securities during continuous trading; and
- executing odd-lot orders, which takes place through an auto-execution facility.

To balance these obligations, DMMs benefit from a specific allocation of the incoming order flow across the two trading books, provided they are present at the National Best Bid and Offer. The NEO Exchange DMM model is very similar to the New York Stock Exchange (NYSE) DMM model.

The NEO Exchange Trading Policies require all DMMs to (i) be members of IIROC; and (ii) trade for their own account.

The Crossing Facility is available to all Members for posting “upstairs trades” (intentional crosses that are in compliance with pricing and order marking requirements in UMIR, which are, as noted, market integrity rules monitored and enforced by IIROC) in NEO Listed Securities and all securities listed on TSX and TSX-V. Intentional crosses are similar to what are commonly referred to as “block trades” in the US. They are negotiated trades that are not considered executed until they are posted on a marketplace, at which point they are sent to IIROC for monitoring and are published as trades on the public market data feed. The Crossing Facility is available between 8:00am and 5:00pm. Such crosses are generally posted in the continuous auction facilities of other Canadian marketplaces where traders have traditionally faced uncertainties due to rapidly moving prices. We have separated the facility as a way to streamline the process so that all crosses sent to the NEO Exchange with the applicable order markers are automatically executed within the facility. It requires the Member posting the cross to ensure that it has met the applicable regulatory requirements (under UMIR), including the required order markers and pricing rules.

## **G. An organized clearance and settlement system**

Similar to all recognized exchanges in Canada including the TSX, the TSX-V and the CSE, that are Designated Offshore Securities Markets for the purposes of Rule 902(b) of Regulation S, all trades on the NEO Exchange are reported, confirmed and settled through CDS Clearing and Depository Services Inc. (“CDS”) pursuant to its rules and procedures. CDS is Canada’s national securities depository, clearing and settlement hub, supporting Canada’s equity, fixed income and money markets. CDS is regulated by the OSC as well as the AMF, BCSC and the Bank of Canada, with working and reporting relationships with the rest of the CSA and the Office of the Superintendent of Financial Institutions in Canada<sup>16</sup>.

As Canada’s central depository for securities, CDS is accountable for the safe custody and movement of depository-eligible domestic and international securities, accurate record-keeping, processing post-trade transactions, and collecting and distributing entitlements arising from securities deposited by customers.

CDS manages the clearing and settlement of trades in both domestic and cross-border depository-eligible securities through the automated clearing and settlement system. Every trading day, CDS clears and settles thousands of Canada-U.S. cross-border transactions through a secure, efficient North American gateway between Canada and the United States. It is the most active and sophisticated inter-depository linkage in the world, accounting for almost one-quarter of its total trade-processing volume. CDS also has custodial relationships with other depositories to facilitate the movement of securities between countries.

I respectfully submit that, based on the foregoing, the NEO Exchange has all of the attributes specified in Rule 902(b)(2) of Regulation S to be recognized as a Designated Offshore Securities Market. Similar to all other exchanges in Canada recognized as Designated Offshore Securities Markets pursuant to Regulation S, the NEO Exchange (except as noted above with respect to TSX-V’s oversight):

- (a) is recognized and regulated by the same governing body;
- (b) is associated with the same generally recognized community of brokers, dealers, banks, or other professional intermediaries with an established operating history;
- (c) is subject to the rules and regulations promulgated under the OSA or NI 21-101, as applicable;
- (d) reports securities transactions on a regular basis under the same requirements to the same self-regulatory body; and
- (e) uses the same organized clearance and settlement system.

Additionally, the NEO Exchange operates a similar system for exchange of price quotations through common communications media using MillenniumIT technology which is also used by other exchanges around the world that are recognized as Designated Offshore Securities Market for the purposes of Rule 902(b) of Regulation S.

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<sup>16</sup> The Office of the Superintendent of Financial Institutions (OSFI) is an independent agency of the Government of Canada, established in 1987 to contribute to the safety and soundness of the Canadian financial system. OSFI supervises and regulates federally registered banks and insurers, trust and loan companies, as well as private pension plans subject to federal oversight.

Thank you for your consideration of this application, and I look forward to hearing from you at your convenience.

Yours very truly,

*"Jos Schmitt"*

Jos Schmitt, President and Chief Executive Officer  
Aequitas NEO Exchange Inc.

cc.

Cindy Petlock, Aequitas NEO Exchange Inc.

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