

Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.2 Marketplaces

13.2.1 Aequitas Innovations, Inc. and Neo Exchange, Inc. – Application by Aequitas Innovations, Inc. and Neo Exchange, Inc. for Variation of Recognition as Exchanges to Reflect Proposed Acquisition by Cboe Canada Holdings, ULC – Notice and Request for Comment

NOTICE AND REQUEST FOR COMMENT

APPLICATION BY

AEQUITAS INNOVATIONS, INC. AND NEO EXCHANGE, INC.

FOR VARIATION OF RECOGNITION AS EXCHANGES TO REFLECT PROPOSED ACQUISITION BY CBOE CANADA HOLDINGS, ULC

A. Introduction

Aequitas Innovations, Inc. (**Aequitas**) and Neo Exchange, Inc. (**Neo**) have applied to the Ontario Securities Commission (**Commission**) for approval of the proposed acquisition (the **Proposed Acquisition**) of Aequitas by Cboe Canada Holdings, ULC (**Cboe Canada**), a Canadian subsidiary of Cboe Global Markets, Inc. (**Cboe Global**) under the terms and conditions of their current recognition order. Aequitas and Neo are also asking the Commission to make an order under section 144 of the *Securities Act* (Ontario) (**Act**) varying the decision of the Commission to recognize Aequitas and Neo as exchanges (**Recognition Order**) to reflect the structure of the new entities under the Proposed Acquisition.

Staff of the Commission is publishing this Notice and Request for Comment, together with the following documentation, for a 30-day public comment period:

- Appendix A – Application by Aequitas and Neo for approval of the Proposed Acquisition and variation of their Recognition Order (**Application**); and
- Appendix B – Draft varied and restated Recognition Order, with terms and conditions (**Draft Varied RO**).

The comment period for this Notice and Request for Comment will close on May 9, 2022. Please see Part D of this Notice for information on how to provide comment.

B. Application and Draft Varied RO

In the Application, Aequitas and Neo have made representations regarding their proposed structure following the Proposed Acquisition, including changes to their corporate governance. They have also provided information about Cboe Global and the benefits they believe will accrue to the Canadian market as a result of the Proposed Acquisition. Aequitas and Neo also provide a description and explanation for all of the proposed changes to their Recognition Order.

The Proposed Acquisition does not involve any merger or any other business combination of Neo or Aequitas with any of the regulated exchanges or trading platforms operated by Cboe Global. In the Application, Aequitas has represented that following the Proposed Acquisition, NEO “will continue to operate in the same manner as before, in that the exchange’s day-to-day operations will be managed by its Toronto management team, subject to the oversight and direction of the Neo Exchange board of directors.”

Aequitas has further represented that it is not seeking to alter the “Canadian regulatory oversight regime applicable to Aequitas and Neo Exchange.” NEO’s mind and management will continue to reside with NEO, although NEO will “be subject to the direction of Cboe [Global] on strategic, policy and organizational alignment matters and may receive support from Cboe [Global] personnel.”

C. Terms and Conditions of Recognition

Aequitas, Neo, and Cboe Global have made representations in respect of complying with the terms and conditions to the Draft Varied RO. The following sections of the notice discuss the general approach to the terms and conditions of recognition and specifically discuss the application of some of the terms and conditions.

i) Recognition of Cboe Global and Cboe Canada

We note that, as proposed, Cboe Global will not be recognized as an exchange, but will be subject to certain terms and conditions. Based on Staff’s review of the Application and the representations of Aequitas, Neo, and Cboe Global, Cboe Global does not carry out exchange activities in respect of Aequitas and Neo that would warrant recognition as an exchange. We note in particular that

Cboe Global maintains a separate and distinct board of directors from both Aequitas and Neo and that Neo is responsible for establishing its own strategic direction.

Staff has proposed that even though Cboe Global would not be recognized as an exchange, it would be subject to certain terms and conditions in areas where it has a degree of influence over the business and operations of Aequitas and Neo. In particular, Cboe Global would be required to allocate sufficient financial and other resources to Aequitas and Neo to ensure that they can carry out their operations as exchanges. Cboe Global would also be subject to a requirement to ensure that Aequitas and Neo conduct the business and operations of recognized exchanges in a manner that is consistent with the public interest.

The proposed terms and conditions that would apply to Cboe Global may be found at Schedule 4 to the Draft Varied RO.

With respect to Cboe Canada, the Cboe Global subsidiary that is acquiring all of Aequitas' issued and outstanding shares, Aequitas and Neo have represented that the entity does not carry on any business operations and functions solely as an intermediate holding company for Cboe Global's Canadian assets. Cboe Canada's board of directors does not make decisions relating to the operations or strategy of any of its subsidiaries and would have no direct input into the core operations of NEO. For this reason, we have proposed that terms and conditions should apply to Cboe Global, but no terms and conditions need apply to Cboe Canada.

ii) Governance Changes

While the majority of the terms and conditions applicable to Aequitas and Neo will remain the same under the Draft Varied RO, one proposed change is that the Chair of the Neo board of directors would no longer be required to be independent, but rather both Aequitas and Neo will implement a governance model involving the election of an independent director to serve as lead director (**Lead Director**) consistent with guidelines set out in CSA National Policy 58-201 *Corporate Governance Guidelines*. The Lead Director will chair all meetings of the independent directors and serve as a liaison between the Chair and the independent directors.

The proposed terms and conditions that would apply to Neo may be found at Schedule 2 to the Draft Varied RO. The proposed terms and conditions that would apply to Aequitas may be found at Schedule 3 to the Draft Varied RO.

D. Comment Process

The Commission is publishing for public comment the Application and Draft Varied RO for 30 days. We are seeking comment on all aspects of the Application and Draft Varied RO.

Please provide your comments in writing, via e-mail, on or before May 9, 2022, to the attention of:

Market Regulation Branch
Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, Ontario M5H 3S8
Email: marketregulation@osc.gov.on.ca

The confidentiality of submissions cannot be maintained as the comment letters and a summary of written comments received during the comment period will be published.

Questions on the content of this Notice and the Draft Varied RO may be directed to:

Christopher Byers
Senior Legal Counsel, Market Regulation
Email: cbyers@osc.gov.on.ca

Hanna Cho
Legal Counsel, Market Regulation
Email: hcho@osc.gov.on.ca

Heather Cohen
Senior Legal Counsel, Market Regulation
Email: hcohen@osc.gov.on.ca

Questions on the content of the Application may be directed to:

Sheri Wang
Neo Regulatory Compliance Manager
Email: sheri@neostockexchange.com

APPENDIX A

March 16, 2022

VIA EMAIL

Ontario Securities Commission
20 Queen Street West, Suite 800
Toronto, Ontario
M5H 3S8

Attention: Susan Greenglass, Director, Market Regulation

Dear Ms. Greenglass:

Re: Proposed Acquisition of Aequitas Innovations, Inc. by Cboe Canada Holdings, ULC

In connection with the proposed acquisition (the "Proposed Transaction") of Aequitas Innovations, Inc. ("Aequitas") by Cboe Canada Holdings, ULC ("Cboe Canada"), pursuant to a share purchase agreement dated November 15th, 2021 among Cboe Global Markets, Inc. ("Cboe"), Cboe Canada, Aequitas and certain other parties thereto, Aequitas and Neo Exchange, Inc. ("Neo Exchange") hereby apply to the Ontario Securities Commission (the "Commission") for an amendment and restatement of the recognition order in respect of Aequitas and Neo Exchange (the "Draft Recognition Order") to reflect the purchase by Cboe Canada of all of the issued and outstanding shares in the capital of Aequitas and additions and revisions to the terms and conditions applicable to Aequitas, Neo Exchange and Cboe, which are described in further detail below.

As an initial matter, it is important to note that the Proposed Transaction will have no impact on the Canadian regulatory oversight regime applicable to Aequitas and Neo Exchange. The Commission will continue as the lead regulator of Aequitas and Neo Exchange. The changes we are proposing to make to the current recognition order (the "Recognition Order") have the principal objective of ensuring strong local elements of Neo Exchange's operations and continuing, primarily unchanged, the Commission's oversight and regulation of Neo Exchange.

Partnering with Cboe will strengthen and enhance Neo Exchange's profile and position in the international capital markets in the midst of a rapidly globalizing and increasingly competitive industry. This will benefit not only Canadian investors, capital-raisers, dealers, financial advisors and asset managers, but all of Canada's capital markets and financial services industry and, ultimately, the Canadian economy.

After completion of the Proposed Transaction, Neo Exchange will continue to operate in the same manner as before, in that the exchange's day-to-day operations will be managed by its Toronto management team, subject to the oversight and direction of the Neo Exchange board of directors. The overall strategy of Neo Exchange will be subject both to the input and oversight of its board of directors, as well as the strategic direction and organizational alignment initiatives of the Cboe Global Markets organization as a whole (the "Cboe Group"). The Proposed Transaction does not involve any merger or other business combination of Neo Exchange or Aequitas with any of the regulated exchanges or other trading platforms operated by Cboe.

This application has been divided into seven sections:

- I. Ownership Restrictions
- II. Description of the Proposed Transaction
- III. Information regarding Cboe
- IV. Benefits of the Proposed Transaction
- V. Governance and Draft Recognition Order
- VI. Items in Recognition Order that are not Impacted
- VII. Enclosure

I. Ownership Restrictions

This section describes the share ownership restrictions applicable to Aequitas under the Recognition Order and the approval requested by Cboe and Aequitas in this regard.

A. Share ownership restrictions applicable to Aequitas and approval requested

Pursuant to Schedule 3, Section 22 of the Recognition Order, there are restrictions, which are generally referred to herein as the “Share Ownership Restrictions”, attached to the shares of Aequitas:

- (a) *Without the prior approval of the Commission, and subject to terms and conditions considered appropriate by the Commission, no person or company and no combination of persons or companies acting jointly or in concert may beneficially own or exercise control or direction over:*
 - (i) *more than 10% of any class or series of voting shares of Aequitas and, thereafter,*
 - (ii) *more than 50% of any class or series of voting shares of Aequitas.*
- (b) *The articles of Aequitas must contain the share ownership restrictions and provisions respecting the enforcement of such restrictions which, without limiting the foregoing, may provide for the filing of declarations, the suspension of voting rights, the forfeiture of dividends, the refusal of the issue or registration of voting shares and the sale or redemption of voting shares held contrary to the restrictions and payment of net proceeds of the sale or redemption to the person entitled thereto.*

Upon closing of the Proposed Transaction, Cboe Canada will acquire all of the issued and outstanding shares in the capital of Aequitas. The Share Ownership Restrictions require the approval of the Commission for the purchase of shares contemplated by the Proposed Transaction. The Commission may, by order, provide its approval and may impose such terms and conditions as it deems appropriate.

For the reasons set forth in this application, including (i) the benefits of the Proposed Transaction to Ontario and Canada, as set out below, (ii) that the Share Ownership Restrictions will continue to apply after the closing of the Proposed Transaction, and (iii) the terms and conditions that will apply to Cboe under the proposed amendments to the Recognition Order, which are described in detail below, we respectfully submit that the Commission should provide its approval.

B. Application of share ownership restrictions post-closing

The Share Ownership Restrictions will continue to apply to Aequitas and Neo Exchange after the closing of the Proposed Transaction, as set out herein and in the Draft Recognition Order.

II. Description of the Proposed Transaction

A. Implementation

At the closing of the Proposed Transaction, Cboe Canada will purchase for cash all of the issued and outstanding shares in the capital of Aequitas. Closing of the Proposed Transaction is subject to customary closing conditions, including that all required regulatory approvals have been obtained.

B. Corporate Structure

The chart below depicts the proposed chain of ownership of Aequitas, pro-forma the closing of the Proposed Transaction.



For further information regarding the structure of the broader Cboe Group, please see Cboe’s Annual Report on Form 10-K for the fiscal year ended December 31, 2020 (“Cboe’s 10-K”) filed with the United States Securities and Exchange Commission (the “SEC”)¹ and its Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2021 (“Cboe’s 10-Q”).²

C. Corporate Governance

1. Aequitas

Upon closing of the Proposed Transaction, the board of directors of Aequitas (the “Aequitas Board”) is expected to consist of a maximum of 10 and a minimum of 6 members. At least one third of the Aequitas Board will be independent, as defined under Section VII – Enclosure, Appendix A – Draft Recognition Order (“Independent Directors”), consistent with the Terms and Conditions applicable to Aequitas under the current Recognition Order. The Nominating Committee of the Aequitas Board will also comply with the Terms and Conditions applicable to the Aequitas Nominating Committee in the current Recognition Order.

The non-independent directors will include one or more senior executive management members of Neo Exchange and/or Aequitas and other representatives of Cboe.

The Chair of the Board will be a non-Independent Director.

In keeping with the governance model used for other entities within the Cboe Group, the Nominating Committee of the Aequitas Board will, on an annual basis, recommend to the Board for election an Independent Director to serve as lead director (“Lead Director”). The Lead Director will chair all meetings of the Independent Directors and serve as a liaison between the Chair and the Independent Directors. It will be the policy of the Aequitas Board that any director who is not an Independent Director should

¹ See: <https://www.sec.gov/ix?doc=/Archives/edgar/data/1374310/000155837021001286/cboe-20201231x10k.htm>
² See: <https://www.sec.gov/ix?doc=/Archives/edgar/data/1374310/000155837021013795/cboe-20210930x10q.htm>

recuse themselves from any discussion or vote related to such election. In addition to the duties of all directors, which are set forth in the Aequitas Board mandate, the specific responsibilities of the Lead Director are as follows:

- Chair all meetings of the Independent Directors of the Board;
- Serve as Acting Chair of the Board when the Chair is not present;
- Serve as a liaison between the Chair and the Independent Directors;
- Approve agendas for Board meetings and consult with the Chair on other matters pertinent to Aequitas and the Board;
- Approve meeting schedules to assure that there is sufficient time for discussion of all agenda items;
- Call meetings of the Independent Directors (and approve agendas and schedules for those meetings);
- Facilitate information flow and communication among directors;
- Interview, along with the Nominating Committee, all Board candidates;
- Serve a key role in the Board self-evaluation process;
- Advise and consult with the Chair and CEO on the general scope and type of information to be provided in advance of Board meetings;
- In collaboration with the Chair and CEO, consult with the appropriate members of senior management about what information pertaining to the company's finances, operations, and compliance is to be sent to the Board; and
- Advise the Board on the retention of advisors and consultants who report directly to the Board.

2. Neo Exchange

Upon closing of the Proposed Transaction, the board of directors of Neo Exchange (the "Neo Board") is also expected to consist of a maximum of 10 and a minimum of 6 members. At least 50% of the Neo Board will be Independent Directors consistent with the Terms and Conditions applicable to Neo Exchange under the current Recognition Order.

The non-independent directors will include one or more senior executive management members of Neo Exchange and other representatives of Cboe.

Consistent with the framework proposed for the Aequitas Board, the Nominating Committee of the Neo Board will, on an annual basis, recommend to the Board for election an Independent Director to serve as Lead Director.

The Chair of the Neo Board will be a non-Independent Director. Appointing a non-Independent Director to Chair the Neo Board will require a change, relative to the current Recognition Order, reflected in the Terms and Conditions applicable to Neo Exchange in the Draft Recognition Order. Specifically, the requirement that the Chair of the Neo Board be an Independent Director would be deleted and replaced with a requirement for Neo Exchange to appoint a Lead Director consistent with the framework set out above.

We believe that any public interest concern that may arise from the Chair of the Neo Board being a non-Independent Director will be addressed by the appointment of an independent Lead Director (we note that the Chair of the Aequitas Board is not required to be independent under the current Recognition Order). This would not be dissimilar to the structure of the board of directors of the Commission, which has established a lead director position whereby the lead director represents the part-time members of the Commission and provides leadership and oversight of the governance obligations of the Commission's board and its committees.

The Canadian Securities Administrators' National Policy 58-201 *Corporate Governance Guidelines* states that an independent director should be appointed to act as "lead director" where it is not appropriate for the chair of the board to be an independent director. Given that Aequitas and Neo Exchange will be transitioning from being principally owned by eight shareholders, none of which own more than 15% of Aequitas, to being wholly owned by Cboe, and that Cboe itself – a U.S. public company – relies on the lead director model to ensure its board's objectivity in business judgements and management oversight, it is appropriate that Neo Exchange be permitted to implement the lead director model.

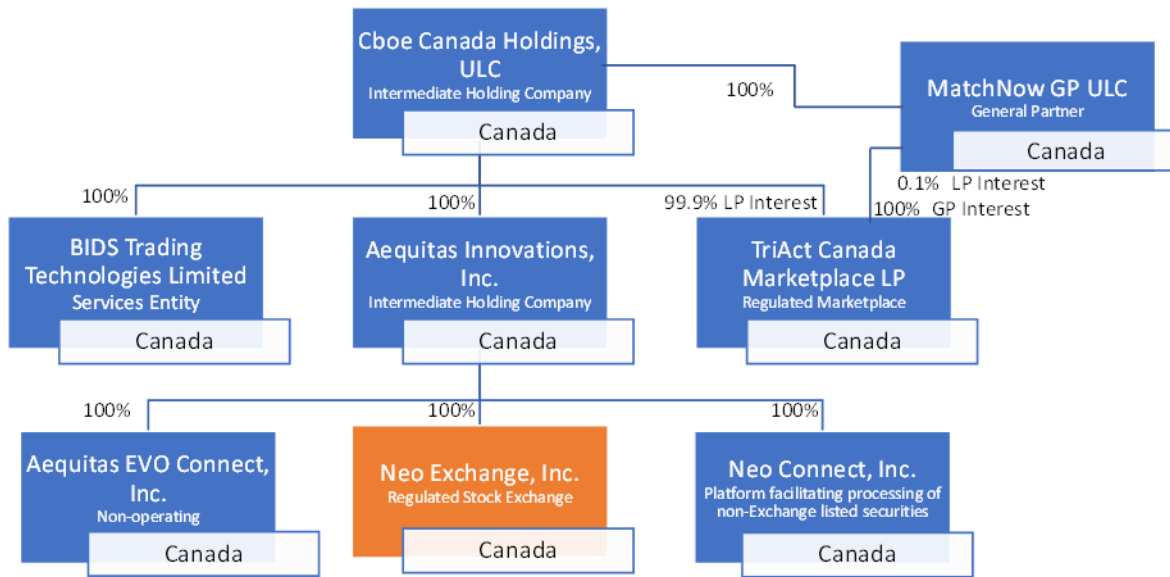
In this connection, we note that both Institutional Shareholder Services, in its Proxy Voting Guidelines for TSX-Listed Companies, and Glass Lewis, in its 2022 Policy Guidelines – Canada, support using the lead director model in appropriate circumstances, including where the relevant company is majority owned by a single shareholder. In addition, from a board management perspective, Cboe favors the lead director structure because it relieves the lead independent director of certain administrative and

logistical responsibilities of the chairman role, allowing the lead independent director to focus his or her time and attention more fully on ensuring that the views of independent directors are represented and taken into account in board matters as appropriate.

Neo Exchange will continue to maintain a Nominating Committee and a Regulatory Oversight Committee consistent with the Terms and Conditions of the current Recognition Order after the closing of the Proposed Transaction.

Upon closing of the Proposed Transaction, the Neo Exchange business will, as described above in the introductory section of this letter, continue to be operated by its CEO and other officers under the direction of the Neo Board. The Neo Board will be composed, as discussed above, of at least 50% of independent directors with no casting vote available to the chairperson of the board. Neo Exchange will be subject to the direction of Cboe on strategic, policy and organizational alignment matters and may receive support from Cboe personnel in certain areas, but the ultimate responsibility for Neo Exchange’s day-to-day operations will continue to reside with its CEO, other officers and the NEO Board.

The chart below provides an overview of all of Neo Exchange’s Canadian affiliates including, for each, their principal business.



Cboe Canada, which will upon closing of the Proposed Transaction acquire all of the issued and outstanding shares in the capital of Aequitas, does not carry on any business operations and functions solely as an intermediate holding company for Cboe’s Canadian assets. Cboe Canada’s board of directors does not make decisions relating to the operations or strategy of any of its subsidiaries, and would have no direct input into the core operations of Neo Exchange.

TriAct Canada Marketplace LP (“TriAct”), an existing subsidiary of Cboe Canada, is a registered investment dealer, IIROC dealer member and alternative trading system which operates as MATCHNow. MATCHNow GP ULC is the general partner of TriAct and its board of directors, which is the regulated board of TriAct, would have no role in the Neo Exchange business.

BIDS Trading Technologies Limited (“BTT”) is the other existing subsidiary of Cboe Canada. BTT functions as a provider of software development services to the broader BIDS business. BTT’s board of directors has no role in the MATCHNow business and would have no role in the Neo Exchange business.

If Cboe’s Canadian subsidiary entities were to provide each other with certain administrative services to achieve operating synergies, any such arrangements would be disclosed to the Ontario Securities Commission to the extent required by (and in accordance with) Form 21-101F1. We would treat any similar arrangements with other companies that are part of the Cboe Group in a similar way.

III. Information regarding Cboe

A. Business

The Cboe Group provides cutting-edge trading and investment solutions to investors around the world. It is committed to defining markets through product innovation, leading edge technology, and seamless trading solutions.

The Cboe Group offers trading across a diverse range of products in multiple asset classes and geographies, including options, futures, U.S., Canadian, European, Australian and Japanese equities, exchange-traded products (“ETPs”), global foreign exchange (“FX”) and volatility products based on the Cboe Volatility Index (“VIX”), recognized as the world’s premier gauge of U.S. equity market volatility.

Cboe’s subsidiaries include the largest options exchange and the third largest stock exchange operator in the U.S. In addition, Cboe operates one of the largest stock exchanges by value traded in Europe, and owns European Central Counterparty N.V., a leading pan-European equities clearinghouse, BIDS Trading, L.P., a leading block-trading alternative trading system (“ATS”) by volume in the U.S., MATCHNow, a leading equities ATS in Canada, and the Chi-X Asia Pacific Group of companies, operating Australia’s second largest stock exchange as well as a leading Japanese proprietary trading system. Cboe BZX Equities Exchange, Inc. is a leading market globally for ETP listings and trading.

B. Regulation of Cboe’s business

Cboe recognizes the importance of its markets and other regulated services being well regulated, and of adhering to appropriate standards of transparency, orderliness, integrity and risk management. Cboe’s regulated entities impose balanced and proportionate regulatory standards to maintain high levels of investor confidence and optimize risk management. Cboe Group entities are subject to extensive oversight by securities and financial regulators across all jurisdictions in which the Cboe Group operates regulated businesses, including (i) in the United States, the Securities and Exchange Commission, the Commodity Futures Trading Commission, and the Financial Industry Regulatory Authority; (ii) in the U.K. and Europe, the U.K. Financial Conduct Authority, Netherlands Authority for the Financial Markets and De Nederlandsche Bank (Netherlands central bank); (iii) in Canada, the Ontario Securities Commission and the Investment Industry Regulatory Organization of Canada; and (iv) in the Asia-Pacific Region, the Australian Securities and Investments Commission and the Japan Financial Services Agency.

All of the regulated entities in the Cboe Group work closely with their respective regulators to maintain exceptionally high regulatory standards.

For further information on the Cboe Group’s businesses and how they are regulated, please see Cboe’s 10-K and Cboe’s 10-Q.

IV. Benefits of the Proposed Transaction

A. Enhanced competition in Canadian equity trading, listing and market data space

The Canadian trading, senior listing and market data landscape are still, to a significant extent, dominated by a single market player. In just over six and a half years, Neo Exchange has established itself as a strong competitor in Canada’s capital markets landscape, leveraging innovation, service and a relentless focus on doing what is right for investors and capital-raisers.

Alongside MATCHNow, a best-in-class ATS and Cboe’s initial foothold in the Canadian market, Neo Exchange will become an integral part of Cboe’s comprehensive North American equities offering. This will bring Neo Exchange additional strength, scale, expertise and client and platform development opportunities that will accelerate its growth and competitive impact in Canada to the benefit of all stakeholders of the Canadian capital markets.

B. Opportunity to broaden competition in Canada into other asset classes and services

Cboe has a proven track record of growing its acquisitions into bigger and better platforms, often starting with an initial foothold, such as MATCHNow in Canada, then growing and expanding with additional acquisitions, such as the Proposed Transaction, and finally expanding that platform into a broad and often multi-asset class offering.

Cboe has a number of established and proven assets, including state-of-the-art technology, a derivatives platform, a clearing platform, and an index publishing platform. Consistent with its approach to prior acquisitions, Cboe may explore leveraging these assets, in connection with Aequitas and Neo Exchange, in the Canadian capital markets to provide competition in areas where competition is currently lacking. This could allow all stakeholders of the Canadian capital markets to benefit from the virtues of competition and innovation in areas where there is currently market concentration and/or innovation is lackluster.

C. Enhanced global visibility for the Canadian market

Over the last 20 years, capital raising and trading have evolved from primarily local endeavors to be global phenomena, driven by the emergence of the innovation economy. The Canadian Government acknowledges³ the importance of innovation for a better Canada and Neo Exchange has established itself as the Canadian stock exchange focused on the innovation economy; but competition for international capital is fierce. The Proposed Transaction is expected to increase awareness of and promote access to Canada’s capital markets, and may accordingly help to ensure that Canada obtains its fair share or more of global asset allocation.

³ [Innovation for a Better Canada: What We Heard - Innovation for a better Canada \(ic.gc.ca\)](https://www.ic.gc.ca/innovation)

Cboe's global footprint and global derivatives and securities trading networks, including the more than 15 markets that it operates around the world (trading equities, ETPs, options, futures, FX and soon digital assets), an international market data distribution platform, an international index publishing platform and an established global sales force with presence in North America, Europe, Asia and Australia is expected to increase the visibility of Aequitas, Neo Exchange and Canada's capital markets internationally, helping to promote Canada around the world and attracting new investments in Canada.

D. Opportunities to provide Canadian issuers with unrivalled access to global capital

In a world where the innovation economy has turned the search for growth capital and investment opportunities into global phenomena, the capital-raisers and investors that will be the leaders of tomorrow are those that will be able to benefit from a streamlined and efficient global capital formation and secondary market trading offering.

Leveraging the capital formation and secondary trading solutions Aequitas and Neo Exchange have built for Canadian issuers of the innovation economy and Cboe's ETP listing and trading platform network across four continents, Cboe may explore the opportunity of building such an offering whereby Canadian capital-raisers would derive substantial benefits from it.

E. Access to global innovation

Aequitas and Cboe share the vision of using innovation to drive change. Through the Proposed Transaction, Neo Exchange, Neo Connect, Inc. (another subsidiary of Aequitas leveraging technology to facilitate the distribution of non-listed securities) and the Canadian capital markets as a whole will benefit from Cboe's unique and relentless focus on innovation, whether it relates to products, services or the application of technology to design new and/or innovative offerings.

Cboe Global Indices is just one example of this culture of innovation. Cboe's index business started with the VIX more than 25 years ago, and has led, today, to more than 450 innovative indices making complex strategies more easily accessible by underpinning listing and trading of derivatives and ETPs on exchanges. It is by combining sophisticated technology, a deep bench of index researchers, academics and professional traders that Cboe Global Indices continuously works towards developing the next generation of index solutions across asset classes. New types of indexing are viewed as one of the most important areas of innovation in the coming years and strategic partnerships with global index providers, like S&P Dow Jones Indices, FTSE Russell and MSCI, enable Cboe Global Indices to continue growing the indexing ecosystem.

F. Benefits to Ontario and Canadian stakeholders

Strengthening competition in the Canadian equity trading, listing and market data space, increasing capital flows from a global investment base, broadening competition across services and asset classes currently solely provided by a single dominant market player, and taking innovation to a new level, will not only benefit the direct recipients of these services and products (Canadian investors, capital-raisers, dealers, financial advisors and asset managers) but Ontario's and Canada's financial services industry as a whole and, ultimately, the Canadian economy. As a result, the demand for financial advisory services and related professionals (e.g., accountants, securities lawyers, geologists) could increase.

G. Executing on the Commission's expanded mandate

The Commission's mandate has been recently expanded to include the fostering of competitive capital markets and capital formation. The Proposed Transaction is a lighthouse example of this expansion of the Commission's mandate at work. It enables stronger competition at stock exchange level, it provides the opportunity to enable market infrastructure competition across services and asset classes where there is currently no competition at all, it allows access to a wellspring of innovation, and it provides capital-raisers with new means to tap into global capital pools. This will benefit efficiency, choice, service, innovation and higher productivity by unbridling competition in Canada's and Ontario's capital markets. It will also take capital formation for Canadian companies, a large part of which are based in Ontario, to the levels required by an innovation economy.

V. Governance and Draft Recognition Order

A. Governance

The board of directors of Aequitas (the "Aequitas Board") determined that it would enter into the Proposed Transaction only if it satisfied itself that the transaction would be beneficial to the Canadian capital markets. The key criteria it considered were:

- Whether the Proposed Transaction would be advantageous to the shareholders and all other Canadian capital markets stakeholders, including investors, Neo Exchange current and future listed issuers, securities dealers and other market intermediaries.
- Whether the Proposed Transaction ensures that Canadian interests are protected.
- Whether the Proposed Transaction will preserve, in a satisfactory manner, the governance, management and operation of Neo Exchange and its ongoing regulation by Canadian securities regulatory authorities.

The Aequitas Board determined these criteria were satisfied. Accordingly, and consistent with the fiduciary obligations of its members, the Aequitas Board unanimously approved the Proposed Transaction because it was of the opinion that it is in the best interest of the Canadian capital markets, is consistent with the Aequitas and Neo Exchange public interest mandates and is in the best interest of the Aequitas corporation.

B. Proposed Amendments to Recognition Order

The provisions of the Recognition Order will remain in effect, with the modifications that are described below.

1. Schedule 2 – Terms and Conditions Applicable to Neo Exchange

a) Definitions and Interpretation (Section 1)

Introducing the defined term “Canadian affiliated entity,” which is any affiliated entity that is incorporated, formed or created under the laws of Canada or a province or territory of Canada. This term is used in the amended definition of “Competitor” and in Section 18 and Section 34 of the Draft Recognition Order in connection with Aequitas’ and Neo Exchange’s provision of information obligations.

Amendment of the definition of Competitor to limit its application to persons whose offerings compete with Neo Exchange and Canadian affiliated entities to avoid the unnecessary burden that would result from considering the entire Cboe Group and related offerings.

Introduction and definition of the concept of a Lead Director who is an independent director and who will chair all meetings of the independent directors of the Board and serve as a liaison between the chair of the Board and the independent directors, in the scenario where the Chair is not an independent director.

Amendment of the definition of significant shareholder to include persons or companies that beneficially own or control directly more than 10% of any class or series of voting shares of Cboe or Aequitas, subject to certain exceptions, which exceptions are consistent with the definition of “significant TMX shareholder” in the TMX Group’s recognition order.

b) Board of Directors (Section 6)

Revised such that the Chair of the board of Neo Exchange is no longer required to be independent, however, if the Chair is not independent an independent Lead Director will be required to be appointed.

c) Conflicts of Interest and Confidentiality (Section 9)

Revised to add references to Neo Exchange in clause (a)(i), to replace the reference to “the significant shareholder” in clause (a)(i)(B) with a reference to “Aequitas or Cboe or Cboe’s affiliated entities” and to include a proviso that the section should not be construed to limit Aequitas or Neo Exchange from providing to Cboe and its affiliated entities necessary information.

These changes (i) align this section of the Recognition Order with comparable sections of the Commission’s order (the “Nasdaq Order”), dated February 8, 2019, which recognizes Nasdaq CXC Limited and Ensoleillement Inc. as exchanges, and pursuant to which Nasdaq, Inc. was subject to certain terms and conditions; and (ii) clarify the scope of information regarding marketplace operations and regulation functions that is required to be subject to Neo Exchange’s confidentiality policies and procedures.

d) Fees, Fee Models and Incentives (Section 12) and Order Routing (Section 13)

Revised to provide that that the restrictions or prior approval by the Commission applicable to fees, fee models, incentives and other similar arrangements under the current Recognition Order will also be applicable, where relevant, to Cboe, its affiliates and other significant shareholders. The changes also align this section of the Recognition Order with the comparable sections of the Nasdaq Order.

e) Provision of Information (Section 18)

Revised to stipulate that the obligation to provide information is limited to Canadian affiliated entities of Neo Exchange. This revision has been introduced for practical reasons and taking in consideration the introduction of New Section 39 - Provision of Information, under New Schedule 4 – Terms and Conditions Applicable to Cboe (see below). This New Section 39 stipulates that Cboe shall promptly provide to the Commission, on request, any and all data, information, and analyses in its custody or control related to the business and operations of Neo Exchange or Aequitas without limitations, redactions, restrictions, or conditions, provided that nothing in this section will be construed to abrogate solicitor-client privilege or any similar doctrines that may apply to communications with and work product produced by counsel.

f) Housekeeping Changes

- **Section 12 – Fees, Fee Models and Incentives**

Correction of typo under Sub-Section (c), replacing “of” with “or”.

- **Section 19 – Compliance with Terms and Conditions**

Flexibility is added with respect to who can be the second signatory, besides the CEO, of the annual certification of compliance with the terms and conditions of the recognition order applicable to Neo Exchange, by allowing for it to be any executive officer of Neo Exchange.

The organizational structure of any corporation is always subject to change, either intentionally or as a result of circumstance. These revisions will provide Aequitas and Neo Exchange with the ability to achieve the intent of the requirement, i.e., certification by the chief executive officer and the second most senior person responsible for regulatory compliance, in a flexible manner, without requiring that the latter person occupy a specific corporate office. The revisions will alleviate any concern regarding possible technical breaches of the Recognition Order in the event that Aequitas and/or Neo Exchange do not then have appointed any person carrying the title “general counsel” and will relieve the unnecessary regulatory burden associated with same.

We respectfully submit that the proposed revision would not result in different treatment of Neo Exchange and Aequitas than the other stock exchanges operating in Canada, as the outcome sought by the requirement would be fully achieved if our proposed revision is accepted. We believe the same flexibility should be available to other exchanges operating in Canada, should they request it.

2. Schedule 3 – Terms and Conditions Applicable to Aequitas

The provisions of the Recognition Order related to Aequitas will remain in effect, with the modifications that are described below.

a) Fitness (Section 24)

Revised to delete the prefatory statement “[i]n order to ensure that Aequitas and its affiliates operate with integrity and in the public interest.”. The operative requirement of that sentence, that Aequitas must take reasonable steps to ensure that each director or officer of Aequitas is a fit and proper person, will remain. Following the Proposed Transaction, Aequitas’ affiliated entities, referenced in the prefatory statement, will no longer just be its own subsidiaries but will include numerous Cboe Group entities over which Aequitas has no control. The operative requirement is not affected by this revision.

b) Confidentiality Procedures (Section 27), Fees, Fee Models and Incentives (Section 29), Order Routing (Section 30) and Provision of Information (Section 35)

Revised to conform with changes made to Sections 9, 12, 13 and 18 of the Terms and Conditions applicable to Neo Exchange, set out above.

c) Prior Commission Approval (Section 32)

Deleted as no longer applicable under the current scenario where there is no longer any shareholder agreement in place. Subsequent sections have been renumbered accordingly.

d) Additional Reporting Obligations (Appendix A)

Limiting the provision to the Commission of any strategic plan and risk reporting, to Aequitas and its subsidiaries as the current wording would cover Cboe and all its affiliates worldwide.

e) Housekeeping Changes

- **Section 35 – Provision of Information**

Renumbered to be Section 34. Correction of typo under Sub-Section (a), replacing “or” with “of”.

- **Section 36 – Compliance with Terms and Conditions**

Renumbered to be Section 35. Revised to conform with changes made to Section 19 of the Terms and Conditions applicable to Neo Exchange, set out above.

3. New Schedule 4 – Terms and Conditions Applicable to Cboe

A number of new provisions are added to the Recognition Order related to Cboe, which encapsulate its commitment to ensure the orderly operation of Neo consistent with the public interest and in compliance with Ontario securities law. These provisions also generally conform to certain terms and conditions agreed by Nasdaq, Inc. in Schedule 4 of the Nasdaq Order.

a) New Section 36 – Definition and Interpretation

Confirming that the terms used in Schedule 4 have the same meanings and interpretation as in Section 1 of Schedule 2.

b) New Section 37 – Public Interest Responsibilities

Confirming that Cboe shall ensure that Neo Exchange and Aequitas conduct the business and operations of recognized exchanges in a manner that is consistent with the public interest.

c) New Section 38 – Allocation of Resources

Confirming that:

- To ensure Neo Exchange and Aequitas can carry out their functions in a manner that is consistent with the public interest and in compliance with Ontario securities law, Cboe shall, for so long as Neo Exchange and Aequitas carry on business as exchanges, facilitate the allocation of sufficient financial and non-financial resources for the operations of these exchanges; and
- Cboe shall notify the Commission immediately upon being aware that it is or will be unable to allocate sufficient financial or other resources to Neo Exchange or Aequitas.

d) New Section 39 – Provision of Information

Confirming that Cboe shall promptly provide to the Commission, on request, any and all data, information, and analyses in its custody or control related to the business and operations of Neo Exchange or Aequitas without limitations, redactions, restrictions, or conditions, provided that nothing in this section will be construed to abrogate solicitor-client privilege or any similar doctrines that may apply to communications with and work product produced by counsel.

VI. Items in Recognition Order that are not Impacted

There are a number of Sections in the Recognition Order that will not be impacted by the Proposed Transaction and the proposed housekeeping changes.

Schedule 1 of the Recognition Order – *Criteria for Recognition* is not impacted and we confirm that Aequitas and Neo Exchange will continue to meet the applicable criteria post-closing.

With respect to Schedule 2 of the Recognition Order – *Terms and Conditions Applicable to Neo Exchange*, Section 2 – Public Interest Responsibilities, Section 3 – Share Ownership Restrictions, Section 4 – Recognition Criteria, Section 5 – Fitness, Section 7 – Nominating Committee, Section 8 – Regulatory Oversight Committee, Section 10 – Access, Section 11 – Regulation of Neo Exchange Marketplace Participants and Neo Exchange Issuers, Section 14 – Financial Reporting, Section 15 – Financial Viability Monitoring, Section 16 – Additional Information, Section 17 – Governance Review, and Appendix A – Additional Reporting Obligations are not impacted by the Proposed Transaction.

With respect to Schedule 3 of the Recognition Order - *Terms and Conditions Applicable to Aequitas*, Section 20 – Definitions and Interpretation, Section 21 – Public Interest Responsibilities, Section 22 – Share Ownership Restrictions, Section 23 – Recognition Criteria, Section 25 – Board of Directors, Section 26 – Nominating Committee, Section 28 – Allocation of Resources, Section 31 – Financial Reporting, Section 33 – Reporting Requirements, Section 34 – Governance Review are not impacted by the Proposed Transaction.

Schedule 4 of the Recognition Order – Process for the Review and Approval of Rules and the Information contained in Form 21-101F1 and the Exhibits thereto is not impacted but for the fact that it becomes Schedule 5.

VII. Enclosure

Appendix A – Draft Recognition Order (blacklined to identify proposed amendments)

Respectfully,

Aequitas Innovations, Inc.

“Jos Schmitt”
President & CEO

Cboe Global Markets, Inc.

“Patrick Sexton”
General Counsel & Corporate Secretary

APPENDIX B

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 21, 144(1).

[date]

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S.5, AS AMENDED
(the "Act")

AND

IN THE MATTER OF
AEQUITAS INNOVATIONS INC.
AND
NEO EXCHANGE INC.

AND

IN THE MATTER OF
CBOE GLOBAL MARKETS, INC.

ORDER
(Sections 21 and 144 of the Act)

WHEREAS the Ontario Securities Commission (**Commission**) issued an order dated November 13, 2014, effective as at March 1, 2015, which was varied on February 27, 2015, September 29, 2015, February 8, 2019 and August 31, 2020, recognizing Aequitas Neo Exchange Inc. and its sole shareholder, Aequitas Innovations Inc. (**Aequitas**), as exchanges pursuant to section 21 of the Act (**Recognition Order**);

AND WHEREAS on January 15, 2019, the name Aequitas Neo Exchange Inc. was changed to Neo Exchange Inc. (**Neo Exchange**);

AND WHEREAS the Commission considers the proper operation of exchanges as essential to investor protection and maintaining a fair and efficient capital market, and therefore requires that any conflicts of interest in the operation of exchanges be dealt with appropriately, the fairness and efficiency of the market not be impaired by any anti-competitive activity, and that systemic risks are monitored and controlled;

AND WHEREAS on [date] Cboe Canada Holdings, ULC (**Cboe Canada**) purchased all of the issued and outstanding share capital of Aequitas;

AND WHEREAS Aequitas, Neo Exchange and Cboe Global Markets, Inc. (**Cboe**) have agreed to the applicable terms and conditions set out in the Schedules to the Recognition Order;

AND WHEREAS the Commission has received a request under schedule 3 section 22 of the Recognition Order to approve the purchase by Cboe Canada of all the issued and outstanding shares in the capital of Aequitas;

AND WHEREAS the Commission has received an application under section 144 of the Act to vary and restate the Recognition Order to reflect the Commission's approval of and changes required in connection with Cboe Canada's purchase of Aequitas (**Application**);

AND WHEREAS based on the Application and the representations that Cboe, Aequitas and Neo Exchange have made to the Commission, the Commission has determined that:

- (a) Aequitas and Neo Exchange continue to satisfy the recognition criteria set out in Schedule 1 to the Recognition Order,
- (b) it is in the public interest to continue to recognize each of Aequitas and Neo Exchange as an exchange pursuant to section 21 of the Act, and
- (c) it is not prejudicial to the public interest to vary and restate the Recognition Order pursuant to section 144 of the Act;

IT IS ORDERED, pursuant to section 144 of the Act, that the Application to vary and restate the Recognition Order is granted.

IT IS ORDERED, pursuant to section 21 of the Act, that:

- (a) Aequitas continues to be recognized as an exchange,
- (b) Neo Exchange continues to be recognized as an exchange, and
- (c) Cboe Canada's purchase of Aequitas is approved.

provided that Cboe, Aequitas and Neo Exchange comply with the terms and conditions set out in the Schedules to the Recognition Order, as applicable.

DATED this [*date*], to take effect [*date*].

“*[name]*”

“*[name]*”

SCHEDULE 1

CRITERIA FOR RECOGNITION

PART 1 COMPLIANCE WITH NI 21-101 AND NI 23-101

1.1 Compliance with NI 21-101 and NI 23-101

The exchange complies with the requirements set out in National Instrument 21-101 *Marketplace Operation (NI 21-101)* and in National Instrument 23-101 *Trading Rules*, each as amended from time to time, which include requirements relating to:

- (a) access;
- (b) marketplace operations;
- (c) exchange rules, policies and other similar instruments;
- (d) order and trade transparency;
- (e) transparency of marketplace operations;
- (f) record keeping;
- (g) marketplace systems and business continuity planning;
- (h) confidentiality of information;
- (i) outsourcing;
- (j) clearing and settlement;
- (k) fair and orderly markets;
- (l) the management of conflicts of interest; and
- (m) filing of financial statements.

PART 2 GOVERNANCE

2.1 Governance

The governance structure and governance arrangements of the exchange ensure:

- (a) effective oversight of the exchange;
- (b) that business and regulatory decisions are in keeping with the exchange's public interest mandate;
- (c) fair, meaningful and diverse representation on the board of directors (Board) and any committees of the Board, including:
 - (i) appropriate representation of independent directors, and
 - (ii) a proper balance among the interests of the different persons or companies using the services and facilities of the exchange;
- (d) the exchange has policies and procedures to appropriately identify and manage conflicts of interest; and
- (e) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors, officers and employees of the exchange.

2.2 Fitness

The exchange has policies and procedures under which it will take reasonable steps, and has taken such reasonable steps, to ensure that each director and officer is a fit and proper person.

PART 3 ACCESS

3.1 Fair Access

- (a) The exchange has established appropriate written standards for access to its services including requirements to ensure participants are appropriately registered under Ontario securities laws, or exempted from these requirements.
- (b) The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.

PART 4 REGULATION OF PARTICIPANTS AND ISSUERS ON THE EXCHANGE

4.1 Regulation

The exchange has the authority, resources, capabilities, systems and processes to allow it to perform its regulation functions, whether directly or indirectly through a regulation services provider, including setting requirements governing the conduct of participants and issuers, monitoring their conduct, and appropriately disciplining them for violations of exchange requirements.

PART 5 RULES AND RULEMAKING

5.1 Rules and Rulemaking

- (a) The exchange has rules, policies, and other similar instruments (**Rules**) that are designed to appropriately govern and regulate the operations and activities of participants and issuers.
- (b) In addition to meeting the requirements of NI 21-101 relating to market operations and exchange rules, policies and other similar instruments as referred to in paragraphs 1.1(b) and (c) of this Schedule, respectively, the Rules are also designed to
 - (i) ensure a fair and orderly market; and
 - (ii) provide a framework for disciplinary and enforcement actions.

PART 6 DUE PROCESS

6.1 Due Process

For any decision made by the exchange that affects a participant or issuer, or an applicant to be a participant or issuer, including a decision in relation to access, listing, exemptions, or discipline, the exchange ensures that:

- (a) parties are given an opportunity to be heard or make representations, and
- (b) it keeps a record of, gives reasons for and provides for appeals or reviews of its decisions.

PART 7 CLEARING AND SETTLEMENT

7.1 Clearing and Settlement

The exchange has appropriate arrangements for the clearing and settlement of trades.

PART 8 SYSTEMS AND TECHNOLOGY

8.1 Information Technology Risk Management Procedures

The exchange has appropriate risk management procedures in place including those that handle trading errors, trading halts and circuit breakers.

PART 9 FINANCIAL VIABILITY

9.1 Financial Viability

The exchange has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

PART 10 FEES

10.1 Fees

- (a) All fees imposed by the exchange are reasonable and equitably allocated and are consistent with the requirements in Ontario securities laws, including those requirements listed in paragraphs 1.1(a) and (e) of this Schedule.
- (b) The process for setting fees is fair and appropriate, and the fee model is transparent.

PART 11 INFORMATION SHARING AND REGULATORY COOPERATION

11.1 Information Sharing and Regulatory Cooperation

The exchange has mechanisms in place to enable it to share information and otherwise co-operate with the Commission, recognized self-regulatory organizations, other recognized or exempt exchanges, clearing agencies, investor protection funds, and other appropriate regulatory bodies.

SCHEDULE 2

TERMS AND CONDITIONS APPLICABLE TO NEO EXCHANGE

1. DEFINITIONS AND INTERPRETATION

(a) For the purposes of this Schedule:

“accounting principles” means accounting principles as defined in National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*;

“affiliated entity” has the meaning ascribed to it in section 1.3 of National Instrument 21-101 *Marketplace Operation*;

“associate” has the meaning ascribed to it in subsection 1(1) of the Act;

“Board” means the board of directors of Aequis or Neo Exchange, as the context requires;

“Canadian affiliated entity” means any affiliated entity that is incorporated, formed or created under the laws of Canada or a province or territory of Canada;

“Competitor” means a person whose consolidated business, operations or disclosed business plans are in competition, to a significant extent, with the listing functions, trading functions, market data services or other material lines of business of Neo Exchange or its Canadian affiliated entities;

“criteria for recognition” means all the criteria for recognition set out in Schedule 1 to the Order;

“dealer” means “investment dealer”, as that term is defined in section 1.1 of National Instrument 31-103 *Registration Requirements*;

“IIROC” means the Investment Industry Regulatory Organization of Canada;

“Lead Director” means an independent director who will chair all meetings of the independent directors of the Board and serve as a liaison between the chair of the Board and the independent directors;

“marketplace” has the meaning ascribed to it in subsection 1(1) of the Act;

“marketplace participant” has the meaning ascribed to it in section 1.1 of NI 21-101;

“Neo Exchange issuer” means a person or company whose securities are listed on Neo Exchange;

“Neo Exchange marketplace participant” means a marketplace participant of Neo Exchange;

“Nominating Committee” means the committee established by Neo Exchange pursuant to section 7 of this Schedule or by Aequis pursuant to section 26 of Schedule 3, as the context requires;

“officer” has the meaning ascribed to it in subsection 1(1) of the Act;

“Regulatory Oversight Committee” means the committee established by Neo Exchange pursuant to section 8 of this Schedule;

“Rule” means a rule, policy, or other similar instrument of Neo Exchange;

“shareholder” means a person or company that holds any class or series of voting shares of Aequis;

“significant shareholder” means a person or company that:

- (i) beneficially owns or exercises control or direction over more than 10% of the outstanding shares of Cboe or Aequis provided, however, that the ownership of or control or direction over Cboe shares in connection with the following activities will not be included for the purposes of determining whether the 10% threshold has been exceeded:
 - (A) investment activities on behalf of the person or company or its affiliated entity where such investments are made (I) by a bona fide third party investment manager with discretionary authority (subject to such retained discretion in order for the person or company or its affiliated entity to fulfil its fiduciary duties); or (II) by an investment fund or other pooled investment vehicle in which the person or company or such affiliated entity has directly or indirectly invested and which is managed by a third party who has not been provided with confidential, undisclosed information about Cboe,
 - (B) acting as a custodian for securities in the ordinary course,

- (C) normal course trading (including proprietary client facilitation trading) and wealth management activities (including, for greater certainty, in connection with the management of any mutual funds, pooled funds, trust accounts, estate portfolios and other investor funds and portfolios), including electronic securities trading, conducted for or on behalf of clients of the person or company, provided that any fund manager with discretionary authority carrying out such activities on behalf of such clients, or such clients, have not been provided with confidential, undisclosed information about Cboe,
- (D) the acquisition of Cboe shares in connection with the adjustment of index-related portfolios or other "basket" related trading,
- (E) making a market in securities to facilitate trading in shares of Cboe by third party clients or to provide liquidity to the market in the person or company's capacity as a designated market maker for shares of Cboe securities, in the person or company's capacity as designated market maker for derivatives on Cboe shares, or in the person or company's capacity as market maker or "designated broker" for exchange traded funds which may have investments in shares of Cboe, in each case in the ordinary course, (which, for greater certainty, will include acquisitions or other derivative transactions undertaken in connection with hedging positions of, or in relation to, Cboe shares), or
- (F) providing financial services to any other person or company in the ordinary course of business of its and their banking, securities, wealth and insurance businesses, provided that such other person or company has not been provided with confidential, undisclosed information about Cboe,

and subject to the conditions that the ownership of or control or direction over Cboe shares by a person or company in connection with the activities listed in (A) through (F) above:

- (G) is not intended by that person or company to facilitate evasion of the 10% threshold set out in clause (i), and
 - (H) does not provide that person or company the ability to exercise voting rights over more than 10% of the voting shares of Cboe in a manner that is solely in the interests of that person or company as it relates to that person or company's ownership of or control or direction over the subject shares, except where the ability to exercise voting rights over more than 10% of the voting shares arises as a result of the activities listed in (E) above in which case the person or company must not exercise its voting rights with respect to those voting shares; or
- (ii) is a shareholder whose nominee is on the Board of Neo Exchange or Aequitas, for as long as the nominee of that shareholder remains on the Board of Neo Exchange or Aequitas; and

"unaudited non-consolidated financial statements" means financial statements that are prepared in the same manner as audited consolidated financial statements, except that

- (i) they are not audited; and
 - (ii) investments in subsidiary entities, jointly controlled entities and associates are accounted for as specified for separate financial statements in International Accounting Standard 27 Separate Financial Statements.
- (b) For the purposes of this Schedule, an individual is independent if the individual is "independent" within the meaning of section 1.4 of National Instrument 52-110 *Audit Committees*, as amended from time to time, but is not independent if the individual:
- (i) is a partner, officer, director or employee of a Neo Exchange marketplace participant or an associate of that partner, officer or employee;
 - (ii) is a partner, officer, director or employee of an affiliated entity of a Neo Exchange marketplace participant who is responsible for or is actively engaged in the day-to-day operations or activities of that Neo Exchange marketplace participant;
 - (iii) is an officer or an employee of Aequitas or any of its affiliates;
 - (iv) is a partner, officer or employee of a significant shareholder or any of its affiliated entities or an associate of that partner, officer or employee;
 - (v) is a director of a significant shareholder or any of its affiliated entities or an associate of that director;
 - (vi) is a person who owns or controls, or is the officer or employee of a person or company that owns or controls, directly or indirectly, more than 10% of the shares of Aequitas;

- (vii) is the director of a person or company that beneficially owns or controls, directly or indirectly, more than 10% of any class or series of voting shares of Aequitas;
 - (viii) is a director that was nominated, and as a result appointed or elected, by a significant shareholder; or
 - (ix) has, or has had, any relationship with a significant shareholder that could, in the view of the Nomination Committee, having regard to all relevant circumstances, be reasonably perceived to interfere with the exercise of his or her independent judgment as a director of Aequitas or Neo Exchange.
- (c) For the purposes of paragraph (b), the Nominating Committee may waive the restrictions set out in subparagraphs (b)(v), (b)(vii) and (viii) provided that:
- (i) the individual being considered does not have, and has not had, any relationship with a shareholder that could, in the view of the Nominating Committee, having regard to all relevant circumstances, be reasonably perceived to interfere with the exercise of his or her independent judgement as a director of Neo Exchange;
 - (ii) Neo Exchange publicly discloses the use of the waiver with reasons why the particular candidate was selected;
 - (iii) Neo Exchange provides advance notice to the Commission, at least 15 business days before the public disclosure in sub-paragraph (c)(ii) is made, and
 - (iv) the Commission does not object within 15 business days of its receipt of the notice provided under sub-paragraph (c)(iii) above.

2. PUBLIC INTEREST RESPONSIBILITIES

- (a) Neo Exchange must conduct its business and operations in a manner that is consistent with the public interest.
- (b) The mandate of the Board must expressly include regulatory and public interest responsibilities of Neo Exchange.

3. SHARE OWNERSHIP RESTRICTIONS

- (a) Without the prior approval of the Commission, and subject to terms and conditions considered appropriate by the Commission, no person or company and no combination of persons or companies acting jointly or in concert may beneficially own or exercise control or direction over:
 - (i) more than 10% of any class or series of voting shares of Neo Exchange and, thereafter,
 - (ii) more than 50% of any class or series of voting shares of Neo Exchange.
- (b) The articles of Neo Exchange must contain the share ownership restrictions and provisions respecting the enforcement of such restrictions which, without limiting the foregoing, may provide for the filing of declarations, the suspension of voting rights, the forfeiture of dividends, the refusal of the issue or registration of voting shares and the sale or redemption of voting shares held contrary to the restrictions and payment of net proceeds of the sale or redemption to the person entitled thereto.

4. RECOGNITION CRITERIA

Neo Exchange must continue to meet the criteria for recognition set out in Schedule 1 to the Order.

5. FITNESS

In order to ensure that Neo Exchange operates with integrity and in the public interest, Neo Exchange will take reasonable steps to ensure that each director or officer of Neo Exchange is a fit and proper person. As part of those steps, Neo Exchange will consider whether the past conduct of each director or officer affords reasonable grounds for the belief that the director or officer will perform their duties with integrity and in a manner that is consistent with Neo Exchange's public interest responsibilities.

6. BOARD OF DIRECTORS

- (a) Neo Exchange must ensure that at least 50% of its Board members are independent.
- (b) The chair of the Board must be independent or, if this is not the case, the Board will have appointed a Lead Director.
- (c) In the event that Neo Exchange fails to meet the requirements under (a) or (b), it must immediately advise the Commission and take appropriate measures to promptly remedy such failure.

- (d) Neo Exchange must ensure that its Board is subject to requirements that the quorum for the Board consists of a majority of the Board members, with at least 50% being independent.

7. NOMINATING COMMITTEE

Neo Exchange must maintain a Nominating Committee of the Board that, at a minimum:

- (a) is made up of at least three directors, at least 50% of which must be independent;
- (b) confirms the status of a nominee to the Board as independent before the individual is appointed to the Board or the name of the individual is submitted to the shareholder(s) of Neo Exchange as a nominee for election to the Board, whichever comes first;
- (c) confirms, on an annual basis, that the status of the directors that are independent has not changed;
- (d) assesses and approves all nominees of management to the Board; and
- (e) has a requirement that the quorum consist of at least 50% of independent directors.

8. REGULATORY OVERSIGHT COMMITTEE

- (a) Neo Exchange must establish and maintain a Regulatory Oversight Committee that, at a minimum:
 - (i) is made up of at least three directors, a majority of which must be independent;
 - (ii) reviews and decides, or makes recommendations to the Board, on proposed regulation and rules that must be submitted to the OSC for review and approval under Schedule 5 Process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 and the Exhibits Thereto of this Order;
 - (iii) considers real or perceived conflicts of interest that may arise, including but not limited to the following contexts:
 - (A) ownership interests in Aequitas by any Neo Exchange marketplace participant with representation on the Board of Aequitas or the Board of Neo Exchange,
 - (B) significant changes to the ownership of Aequitas, and
 - (C) the profit-making objective and the public interest responsibilities of Neo Exchange, including general oversight of the management of the regulatory and public interest responsibilities of Neo Exchange;
 - (iv) oversees the establishment of mechanisms to avoid and appropriately manage conflicts of interest or potential conflicts of interest, perceived or real, including any policies and procedures that are developed by Neo Exchange, including those that are required to be established pursuant to the Schedules of the Order;
 - (v) reviews the effectiveness of the policies and procedures regarding conflicts of interest on a regular, and at least annual, basis;
 - (vi) reports in writing directly to the Commission on any matter that the Regulatory Oversight Committee deems appropriate or that is required by the Commission without first requiring Board approval for such reporting.
- (b) The Regulatory Oversight Committee must provide such information as may be required by the Commission from time to time.

9. CONFLICTS OF INTEREST AND CONFIDENTIALITY

- (a) Neo Exchange must establish, maintain and require compliance with policies and procedures that:
 - (i) require that confidential information regarding Neo Exchange marketplace operations, Neo Exchange regulation functions, a Neo Exchange marketplace participant or a Neo Exchange issuer that is obtained by a partner, director, officer or employee of a significant shareholder through that individual's involvement in the management or oversight of marketplace operations or regulation functions of Neo Exchange:
 - (A) be kept separate and confidential from the business or other operations of the significant shareholder, except with respect to information regarding marketplace operations where disclosure is necessary to carry out the individual's responsibilities for the management or oversight of marketplace operations and the individual can and does exercise due care in his or her disclosure of the information, and
 - (B) not be used to provide an advantage to Aequitas or Cboe or Cboe's affiliated entities;

provided that nothing in this section will be construed to limit Aequitas or Neo Exchange from providing to Cboe and its affiliated entities necessary information.

- (b) Neo Exchange must establish, maintain and require compliance with policies and procedures that identify and manage conflicts of interest or potential conflicts of interest arising from the listing of the shares of any significant shareholder or an affiliate of a significant shareholder on Neo Exchange.
- (c) Neo Exchange must regularly review compliance with the policies and procedures established in accordance with (a) and (b) and must document each review, and any deficiencies, and how those deficiencies were remedied.

10. ACCESS

Neo Exchange's requirements must provide access to the facilities of Neo Exchange only to properly registered investment dealers that are members of IIROC and satisfy reasonable access requirements established by Neo Exchange.

11. REGULATION OF NEO EXCHANGE MARKETPLACE PARTICIPANTS AND NEO EXCHANGE ISSUERS

- (a) Neo Exchange must establish, maintain and require compliance with policies and procedures that effectively monitor and enforce the Rules against Neo Exchange marketplace participants and Neo Exchange issuers, either directly or indirectly through a regulation services provider.
- (b) Neo Exchange has retained and will continue to retain IIROC as a regulation services provider to provide, as agent for Neo Exchange, certain regulation services that have been approved by the Commission.
- (c) Neo Exchange must perform all other regulation functions not performed by IIROC, and must maintain adequate staffing, systems and other resources in support of those functions. Neo Exchange must obtain prior Commission approval before outsourcing such regulation functions to any party, including affiliated entities or associates of Neo Exchange.
- (d) Neo Exchange must notify the Commission of any violations of Ontario securities law of which it becomes aware in the ordinary course of its business or otherwise.

12. FEES, FEE MODELS AND INCENTIVES

- (a) Neo Exchange must not, through any fee schedule, any fee model or any contract, agreement or other arrangement with any marketplace participant or any other person or company, provide:
 - (i) any discount, rebate, allowance, price concession or other similar arrangement that is accessible only to, whether as designed or by implication, a particular marketplace participant or any other particular person or company, or
 - (ii) any discount, rebate, allowance, price concession or other similar arrangement for any service or product offered by Neo Exchange or Cboe and its affiliated entities and significant shareholders that is conditional upon:
 - (A) the requirement to have Neo Exchange be set as the default or first marketplace a marketplace participant routes to, or
 - (B) the router of Neo Exchange being used as the marketplace participant's primary router.
- (b) Except with the prior approval of the Commission, Neo Exchange must not, through any fee schedule, any fee model or any contract, agreement or other arrangement with any marketplace participant or any other person or company, provide:
 - (i) any discount, rebate, allowance, price concession or other similar arrangement on any services or products offered by Neo Exchange or Cboe and its affiliated entities and significant shareholders that is conditional upon the purchase of any other service or product provided by Neo Exchange or Cboe or any affiliated entity, or
 - (ii) any discount, rebate, allowance, price concession or other similar arrangement that is accessible only to, whether as designed or by implication, a class of marketplace participants or of any other persons or companies.
- (c) Neo Exchange must obtain prior Commission approval before implementing any new, or amendments to, fees and fee models, including any new, or amendments to any, incentives relating to arrangements that provide for equity ownership in Aequitas for marketplace participants or their affiliated entities based on trading volumes or values on Neo Exchange.
- (d) Except with the prior approval of the Commission, Neo Exchange must not require another person or company to purchase or otherwise obtain products or services from Neo Exchange or Cboe and its affiliated entities and significant shareholders as a condition of Neo Exchange supplying or continuing to supply a product or service.

- (e) If the Commission considers that it would be in the public interest, the Commission may require Neo Exchange to submit for approval by the Commission a fee, fee model or incentive that has previously been submitted to and/or approved by the Commission.
- (f) Where the Commission decides not to approve the fee, fee model or incentive submitted under (e), any previous approval for the fee, fee model or incentive must be revoked, if applicable, and Neo Exchange will no longer be permitted to offer the fee, fee model or incentive.

13. ORDER ROUTING

Neo Exchange must not support, encourage or incent, either through fee incentives or otherwise, Neo Exchange marketplace participants, Cboe affiliated entities or significant shareholders to coordinate the routing of their orders to Neo Exchange.

14. FINANCIAL REPORTING

Neo Exchange must deliver to the Commission its annual financial budget, together with the underlying assumptions, that has been approved by its Board, within 30 days from the commencement of each fiscal year.

15. FINANCIAL VIABILITY MONITORING

- (a) Neo Exchange must maintain sufficient financial resources for the proper performance of its functions and to meet its responsibilities.
- (b) Neo Exchange must calculate the following financial ratios monthly:
 - (i) a current ratio, being the ratio of current assets to current liabilities;
 - (ii) a debt to cash flow ratio, being the ratio of total debt (including any line of credit draw downs, and the current and long-term portions of any loans, but excluding accounts payable, accrued expenses and other liabilities) to EBITDA (earnings before interest, taxes, stock-based compensation, depreciation and amortization) for the most recent 12 months; and
 - (iii) a financial leverage ratio, being the ratio of total assets to shareholders' equity,in each case following the same accounting principles as those used for the unaudited non consolidated financial statements of Neo Exchange.
- (c) Neo Exchange must report quarterly in writing to the Commission the monthly calculations for the previous quarter of the financial ratios as required to be calculated under paragraph (b).
- (d) If Neo Exchange determines that it does not have, or anticipates that, in the next twelve months, it will not have sufficient financial resources for the proper performance of its functions and to meet its responsibilities, it will immediately notify the Commission along with the reasons and any impact on the financial viability of Neo Exchange.
- (e) Upon receipt of a notification made by Neo Exchange under (d), the Commission may, as determined appropriate, impose additional terms and conditions on Neo Exchange.

16. ADDITIONAL INFORMATION

- (a) Neo Exchange must provide the Commission with:
 - (i) the information set out in Appendix A to this Schedule, as amended from time to time; and
 - (ii) any information required to be provided by Neo Exchange to IIROC, including all order and trade information, as required by the Commission.

17. GOVERNANCE REVIEW

- (a) At the request of the Commission, Neo Exchange must engage an independent consultant, or independent consultants acceptable to the Commission to prepare a written report assessing the governance structure of Neo Exchange (Governance Review).
- (b) The written report must be provided to the Board of Neo Exchange promptly after the report's completion and then to the Commission within 30 days of providing it to the Board.
- (c) The scope of the Governance Review must be approved by the Commission.

18. PROVISION OF INFORMATION

- (a) Neo Exchange must, and must cause its Canadian affiliated entities to, promptly provide to the Commission, on request, any and all data, information and analyses in the custody or control of Neo Exchange or any of its affiliated entities, without limitations, redactions, restrictions or conditions, including, without limiting the generality of the foregoing:
 - (i) data, information and analyses relating to all of its or their businesses; and
 - (ii) data, information and analyses of third parties in its or their custody or control.
- (b) Neo Exchange must share information and otherwise cooperate with other recognized or exempt exchanges, recognized self-regulatory organizations, recognized or exempt clearing agencies, investor protection funds, and other appropriate regulatory bodies.

19. COMPLIANCE WITH TERMS AND CONDITIONS

- (a) Neo Exchange must certify in writing to the Commission, in a certificate signed by its CEO and either its general counsel or another executive officer, within one year of the effective date of its recognition as an exchange pursuant to this Order and every year subsequent to that date, or at any times required by the Commission, that it is in compliance with the terms and conditions applicable to it in the Order and describe in detail:
 - (i) the steps taken to require compliance;
 - (ii) the controls in place to verify compliance;
 - (iii) the names and titles of employees who have oversight of compliance.
- (b) If Neo Exchange or any of its directors, officers or employees become aware of a breach or a possible breach of any of the terms and conditions applicable to the Neo Exchange under the Schedules to the Order, such person must, within two business days after becoming aware of the breach or possible breach, notify the Regulatory Oversight Committee of the breach or possible breach. The director, officer or employee of the recognized exchange must provide to the Regulatory Oversight Committee details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or possible breach.
- (c) The Regulatory Oversight Committee must, within two business days after being notified of the breach or possible breach, notify the Commission and confirm that the breach or possible breach is under investigation as required by (d).
- (d) The Regulatory Oversight Committee must promptly cause to be conducted an investigation of the breach or possible breach reported under (b). Once the Regulatory Oversight Committee has made a determination as to whether there has been a breach, or that there is an impending breach, of any terms and conditions applicable to Neo Exchange under the Schedules to the Order, the Regulatory Oversight Committee must, within two business days of such determination, notify the Commission of its determination and must provide details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or impending breach, and any actions that will be taken to address it.

Appendix A

Additional Reporting Obligations

1. Ad Hoc

- (a) Immediate notification of a decision to enter into a definitive agreement (including a binding letter of intent), memorandum of understanding or other similar agreement with any governmental or regulatory body, self-regulatory obligation, clearing agency, stock exchange, other marketplace or market, except in the case where the agreement or arrangement: (i) is primarily intended to restrict the use or disclosure of confidential information, (ii) is primarily for the purpose of facilitating discussions in connection with a possible definitive agreement, (iii) is necessary to support the provision of the existing exchange services, or (iv) relates to the provision of the existing exchange services and is also subject to the standard form agreements of the exchange (for example, listing agreements, data subscription agreements, etc.).
- (b) Immediate notification if Neo Exchange:
 - (i) becomes the subject of any order, directive or similar action of a governmental or regulatory authority;
 - (ii) becomes aware that it is the subject of a criminal or regulatory investigation; or
 - (iii) becomes, or it is notified in writing that it will become, the subject of a material lawsuit.
- (c) Any strategic plan for Neo Exchange, within 30 days of approval by the Board.
- (d) Any information submitted by Neo Exchange to a Canadian securities regulatory authority under a requirement of a recognition order, exemption order or NI 21-101, provided concurrently.
- (e) Copies of all notices, bulletins and similar forms of communication that Neo Exchange sends to the Neo Exchange marketplace participants or Neo Exchange issuers.
- (f) Prompt notification of any suspension or delisting of a Neo Exchange issuer, including the reasons for the suspension or delisting.
- (g) Prompt notification of any initial listing application received from a significant shareholder or any of its affiliates.
- (h) Prompt notification of any initial listing application received from a Competitor.
- (i) Prompt notification of any application for exemption or waiver from requirements received from a significant shareholder or any of its affiliates.

2. Quarterly Reporting

- (a) A quarterly report summarizing all exemptions or waivers granted during the period pursuant to the Rules to any Neo Exchange marketplace participant or Neo Exchange issuer, which must include the following information:
 - (i) the name of the Neo Exchange marketplace participant or Neo Exchange issuer;
 - (ii) the type of exemption or waiver granted during the period;
 - (iii) the date of the exemption or waiver; and
 - (iv) a description of the recognized exchange's reason for the decision to grant the exemption or waiver.
- (b) A quarterly report regarding initial listing applications containing the following information:
 - (i) the name of any Neo Exchange issuer whose initial listing application was conditionally approved, the date of such approval, the type of listing, the category of listing and, if known, whether the issuer was denied an application to list its securities on another marketplace;
 - (ii) the name of any issuer whose initial listing application was rejected and the reasons for rejection, by category of listing; and
 - (iii) the name of any issuer whose initial listing application was withdrawn or abandoned and, if known, the reasons why the application was withdrawn or abandoned, by category of listing.

The information required by section 2(b)(i) above should disclose whether the issuer is an Emerging Market Issuer, whether the listing involved an agent, underwriter or Canadian Securities Regulatory Authority, and any

additional requirements imposed by Neo Exchange pursuant to sections 2.10 and 2.11 of the Neo Exchange Listing Manual.

- (c) A quarterly report summarizing all significant incidents of non-compliance by Neo Exchange issuers identified by Neo Exchange during the period, together with a summary of the actions taken to address and resolve the incidents of non-compliance.
- (d) A quarterly report listing all the Competitors listed on Neo Exchange.
- (e) A quarterly report summarizing instances where conflicts of interest or potential conflicts of interest with respect to Competitors have been identified by Neo Exchange and how such conflicts were addressed.
- (f) A quarterly report, the scope of which must be approved by the Commission, relating to compliance with the use of certain designations by marketplace participants, including the results of reviews of marketplace participants' use of such designations and a description of the actions taken to address and resolve instances of non-compliance.

3. Annual Reporting

At least annually, or more frequently if required by the Commission, an assessment of the risks, including business risks, facing Neo Exchange and the plan for addressing such risks.

SCHEDULE 3

TERMS AND CONDITIONS APPLICABLE TO AEQUITAS

20. DEFINITIONS AND INTERPRETATION

Terms used in this Schedule have the same meanings and interpretation as in section 1 of Schedule 2.

21. PUBLIC INTEREST RESPONSIBILITIES

- (a) Aequitas must conduct its business and operations in a manner that is consistent with the public interest.
- (b) The mandate of the Board must expressly include Aequitas' regulatory and public interest responsibilities.

22. SHARE OWNERSHIP RESTRICTIONS

- (a) Without the prior approval of the Commission, and subject to terms and conditions considered appropriate by the Commission, no person or company and no combination of persons or companies acting jointly or in concert may beneficially own or exercise control or direction over:
 - (i) more than 10% of any class or series of voting shares of Aequitas and, thereafter,
 - (ii) more than 50% of any class or series of voting shares of Aequitas.
- (b) The articles of Aequitas must contain the share ownership restrictions and provisions respecting the enforcement of such restrictions which, without limiting the foregoing, may provide for the filing of declarations, the suspension of voting rights, the forfeiture of dividends, the refusal of the issue or registration of voting shares and the sale or redemption of voting shares held contrary to the restrictions and payment of net proceeds of the sale or redemption to the person entitled thereto.

23. RECOGNITION CRITERIA

Aequitas must continue to meet the criteria for recognition set out in Schedule 1 to the Order.

24. FITNESS

Aequitas must take reasonable steps to ensure that each director or officer of Aequitas is a fit and proper person. As part of those steps, Aequitas will consider whether the past conduct of each director or officer affords reasonable grounds for the belief that the director or officer will perform their duties with integrity and in a manner that is consistent with Aequitas's public interest responsibilities.

25. BOARD OF DIRECTORS

- (a) Aequitas must ensure that at least one third of its Board members are independent.
- (b) In the event that Aequitas fails to meet the requirements under (a), it must immediately advise the Commission and take appropriate measures to remedy such failure.
- (c) Aequitas must ensure that the Board is subject to requirements that the quorum for the Board consists of a majority of the Board members, with at least two directors being independent.

26. NOMINATING COMMITTEE

Aequitas must maintain a Nominating Committee that, at a minimum:

- (a) is made up of at least three directors, at least 50% of which must be independent;
- (b) confirms the status of a nominee to the Board as independent before the individual is appointed to the Board or the name of the individual is submitted to shareholders as a nominee for election to the Board, whichever comes first;
- (c) confirms, on an annual basis, that the status of the directors that are independent has not changed;
- (d) assesses and approves all nominees of management to the Board; and
- (e) has a requirement that the quorum consist of at least 50% of independent directors.

27. CONFIDENTIALITY PROCEDURES

- (a) Aequitas must establish, maintain and require compliance with policies and procedures that:
- (i) require that confidential information regarding Neo Exchange marketplace operations, Neo Exchange regulation functions, a Neo Exchange marketplace participant or a Neo Exchange issuer that is obtained by a partner, director, officer or employee of a significant shareholder through that individual's involvement in the management or oversight of the marketplace operations or regulation functions of Neo Exchange:
 - (A) be kept separate and confidential from the business or other operations of the significant shareholder, except with respect to information regarding marketplace operations where disclosure is necessary to carry out the individual's responsibilities for the management or oversight of marketplace operations and the individual can and does exercise due care in his or her disclosure of the information, and
 - (B) not be used to provide an advantage to Aequitas or Cboe or Cboe's affiliated entities;

provided that nothing in this section will be construed to limit Aequitas or Neo Exchange from providing to Cboe and its affiliated entities necessary information.

- (b) Aequitas must regularly review compliance with the policies and procedures established in accordance with (a) and must document each review and any deficiencies and how those deficiencies were remedied.

28. ALLOCATION OF RESOURCES

- (a) Aequitas must, for so long as Neo Exchange carries on business as an exchange, allocate sufficient financial and other resources to Neo Exchange to ensure that Neo Exchange can carry out its functions in a manner that is consistent with the public interest and in compliance with Ontario securities law.
- (b) Aequitas must notify the Commission immediately upon being aware that it is or will be unable to allocate sufficient financial and other resources, as required under (a), to Neo Exchange.

29. FEES, FEE MODELS AND INCENTIVES

- (a) Aequitas must ensure that its affiliated entities, including Neo Exchange or Cboe and its affiliated entities, do not, through any fee schedule, any fee model or any contract, agreement or other arrangement with any marketplace participant or any other person or company, provide:
- (i) any discount, rebate, allowance, price concession or other similar arrangement that is accessible only to, whether as designed or by implication, a particular marketplace participant or any other particular person or company, or
 - (ii) any discount, rebate, allowance, price concession or other similar arrangement for any service or product offered by the affiliated entity, including Neo Exchange or Cboe and its affiliated entities and significant shareholders, that is conditional upon:
 - (A) the requirement to have Neo Exchange be set as the default or first marketplace a marketplace participant routes to; or
 - (B) the router of Neo Exchange being used as the marketplace participant's primary router.
- (b) Aequitas must ensure that its affiliated entities, including Neo Exchange, do not, through any fee schedule, any fee model or any contract, agreement or other arrangement with any marketplace participant or any other person or company, provide:
- (i) any discount, rebate, allowance, price concession or other similar arrangement on any services or products offered by the affiliated entity, including Neo Exchange or Cboe and its affiliated entities and significant shareholders that is conditional upon the purchase of any other service or product provided by the affiliated entity; or
 - (ii) any discount, rebate, allowance, price concession or other similar arrangement that is accessible only to, whether as designed or by implication, a class of marketplace participants or of any other persons or companies, unless prior approval has been granted by the Commission.
- (c) Aequitas must ensure that Neo Exchange obtains prior Commission approval before implementing any new, or amendments to, fees and fee models, including any new, or amendments to any, incentives relating to arrangements

that provide for equity ownership in Aequitas for marketplace participants or their affiliated entities based on trading volumes or values on Neo Exchange.

- (d) Aequitas must ensure that Neo Exchange does not require a person or company to purchase or otherwise obtain products or services from Neo Exchange or Cboe and its affiliated entities and significant shareholders as a condition of Neo Exchange supplying or continuing to supply a product or service unless prior approval has been granted by the Commission.
- (e) Aequitas must ensure that Neo Exchange or Cboe and its affiliated entities and significant shareholders do not require another person, significant shareholder or company to obtain products or services from Neo Exchange as a condition of the affiliated entity supplying or continuing to supply a product or service.

30. ORDER ROUTING

Aequitas must not support, encourage or incent, either through fee incentives or otherwise, Neo Exchange marketplace participants, Cboe affiliated entities or significant shareholders to coordinate the routing of their orders to Neo Exchange.

31. FINANCIAL REPORTING

Aequitas must deliver to the Commission its annual financial budget, together with the underlying assumptions, that has been approved by its Board, within 30 days from the commencement of each fiscal year.

32. REPORTING REQUIREMENTS

Aequitas must provide the Commission with the information set out in Appendix A to this Schedule, as amended from time to time.

33. GOVERNANCE REVIEW

- (a) At the request of the Commission, Aequitas must engage an independent consultant, or independent consultants, acceptable to the Commission to prepare a written report assessing the governance structure of Aequitas (**Aequitas Governance Review**).
- (b) The written report must be provided to the Board of Aequitas promptly after the report's completion and then to the Commission within 30 days of providing it to the Board.
- (c) The scope of the Aequitas Governance Review must be approved by the Commission.

34. PROVISION OF INFORMATION

- (a) Aequitas must, and must cause its Canadian affiliated entities to promptly provide to the Commission, on request, any and all data, information and analyses in the custody or control of Aequitas or any of its affiliated entities, without limitations, redactions, restrictions or conditions, including, without limiting the generality of the foregoing:
 - (i) data, information and analyses relating to all of its or their businesses; and
 - (ii) data, information and analyses of third parties in its or their custody or control.
- (b) Aequitas must share information and otherwise cooperate with other recognized or exempt exchanges, recognized self-regulatory organizations, recognized or exempt clearing agencies, investor protection funds, and other appropriate regulatory bodies.

35. COMPLIANCE WITH TERMS AND CONDITIONS

- (a) Aequitas must certify in writing to the Commission, in a certificate signed by its CEO and either its general counsel or another executive officer, within one year of the effective date of its recognition as an exchange pursuant to this Order and every year subsequent to that date, or at any times required by the Commission, that it is in compliance with the terms and conditions applicable to it in the Order and describe in detail:
 - (i) the steps taken to require compliance;
 - (ii) the controls in place to verify compliance; and
 - (iii) the names and titles of employees who have oversight of compliance.
- (b) If Aequitas or any of its directors, officers or employees become aware of a breach or a possible breach of any of the terms and conditions applicable to Aequitas under the Schedules to the Order, such person must, within two business

days after becoming aware of the breach or possible breach, notify the Board or committee designated by the Board and approved by the Commission of the breach or possible breach. The director, officer or employee of the recognized exchange must provide to the Board or committee designated by the Board details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or possible breach.

- (c) The Board or committee designated by the Board must, within two business days after being notified of the breach or possible breach, notify the Commission and confirm that the breach or possible breach is under investigation as required under (d).
- (d) The Board or committee designated by the Board must promptly cause to be conducted an investigation of the breach or possible breach reported under (b). Once the Board or committee designated by the Board has made a determination as to whether there has been a breach, or that there is an impending breach, of any terms and conditions applicable to Aequitas under the Schedules to the Order, the Board or committee designated by the Board must, within two business days of such determination, notify the Commission of its determination and must provide details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or impending breach, and any actions that will be taken to address it.

Appendix A

Additional Reporting Obligations

1. Ad Hoc

- (a) Immediate notification of a decision to enter into a definitive agreement (including a binding letter of intent), memorandum of understanding or other similar agreement with any governmental or regulatory body, self-regulatory obligation, clearing agency, stock exchange, other marketplace or market, except in the case where the agreement or arrangement: (i) is primarily intended to restrict the use or disclosure of confidential information, (ii) is primarily for the purpose of facilitating discussions in connection with a possible definitive agreement, (iii) is necessary to support the provision of the existing exchange services, (iv) relates to the provision of the existing exchange services and is also subject to the standard form agreements of the exchange (for example, listing agreements, data subscription agreements, etc.), or (v) relates to a business line other than exchange services.
- (b) Immediate notification if Aequitas:
 - (i) becomes the subject of any order, directive or similar action of a governmental or regulatory authority;
 - (ii) becomes aware that it is the subject of a criminal or regulatory investigation; or
 - (iii) becomes, or it is notified in writing that it will become, the subject of a material lawsuit.
- (c) Immediate notification if any shareholder or any affiliate of a shareholder of Aequitas becomes, or it is notified in writing that it will become, the subject of a criminal, administrative or regulatory proceeding.
- (d) Any strategic plan for Aequitas and its subsidiaries, within 30 days of approval by the Board.
- (e) Any information submitted by Aequitas to a Canadian securities regulatory authority under a requirement of a recognition order, exemption order or NI 21-101, provided concurrently.

2. Annual Reporting

At least annually, or more frequently if required by the Commission, an assessment of the risks, including business risks, facing Aequitas and its subsidiaries and the plan for addressing such risks.

SCHEDULE 4

TERMS AND CONDITIONS APPLICABLE TO CBOE

36. DEFINITIONS AND INTERPRETATION

Terms used in this Schedule have the same meanings and interpretation as in section 1 of Schedule 2.

37. PUBLIC INTEREST RESPONSIBILITIES

Cboe shall ensure that Neo Exchange and Aequitas conduct the business and operations of recognized exchanges in a manner that is consistent with the public interest.

38. ALLOCATION OF RESOURCES

- (a) To ensure Neo Exchange and Aequitas can carry out their functions in a manner that is consistent with the public interest and in compliance with Ontario securities law, Cboe shall, for so long as Neo Exchange and Aequitas carry on business as exchanges, facilitate the allocation of sufficient financial and non-financial resources for the operations of these exchanges.
- (b) Cboe shall notify the Commission immediately upon being aware that it is or will be unable to allocate sufficient financial or other resources to Neo Exchange or Aequitas, as required under paragraph (a).

39. PROVISION OF INFORMATION

Cboe shall promptly provide to the Commission, on request, any and all data, information, and analyses in its custody or control related to the business and operations of Neo Exchange or Aequitas without limitations, redactions, restrictions, or conditions, provided that nothing in this section will be construed to abrogate solicitor-client privilege or any similar doctrines that may apply to communications with and work product produced by counsel.

SCHEDULE 5

PROCESS FOR THE REVIEW AND APPROVAL OF
RULES AND THE INFORMATION CONTAINED IN FORM 21-101F1 AND THE EXHIBITS THERETO

1. Purpose

This Protocol sets out the procedures a recognized exchange (Exchange) must follow for any Rule or Change, both as defined in section 2 below, and describes the procedures for their review by Commission Staff (Staff) and approval by the Commission or the Director. This Protocol also establishes requirements regarding the time at which an Exchange may begin operations following recognition by the Commission.

2. Definitions

For the purposes of this Protocol:

- (a) *Change* means a Fee Change, a Housekeeping Change or a Significant Change.
- (b) *Director* means "Director" as defined in subsection 1(1) of the Securities Act (Ontario).
- (c) *Fee Change* means any new fee or fee model of the Exchange and any amendment to a fee or fee model.
- (d) *Fee Change subject to Public Comment* means a Fee Change that, in Staff's view, may have a significant impact on the Exchange, its market structure, members, issuers, investors or the Canadian capital markets or otherwise raises regulatory or public interest concerns and should be subject to public comment.
- (e) *Housekeeping Change* means an amendment to the information in Form 21-101F1 that
 - (i) does not have a significant impact on the Exchange, its market structure, members, issuers, investors or the Canadian capital markets, or
 - (ii) is of a housekeeping or administrative nature and is comparable to the types of housekeeping changes listed in subsection 6.1(5)(b) of Companion Policy 21-101CP.
- (f) *Housekeeping Rule* means a new Rule or an amendment to a Rule that
 - (i) does not have a significant impact on the Exchange, its market structure, members, issuers, investors or the Canadian capital markets, or
 - (ii) is of a housekeeping or administrative nature and is comparable to the types of housekeeping changes listed in subsection 6.1(5)(b) of Companion Policy 21-101CP.
- (g) *Public Interest Rule* means a Rule or an amendment to a Rule that is not a Housekeeping Rule.
- (h) *Rule* includes a rule, policy and other similar instrument of the Exchange.
- (i) *Significant Change* means an amendment to the information in Form 21-101F1 other than
 - (i) a Housekeeping Change,
 - (ii) a Fee Change, or
 - (iii) a Rule,and for greater certainty includes the matters listed in subsection 6.1(4) of Companion Policy 21-101 CP.
- (j) *Significant Change subject to Public Comment* means a Significant Change that
 - (i) is listed in paragraphs 6.1(4)(a) or (b) of Companion Policy 21-101 CP, or
 - (ii) in Staff's view, may have a significant impact on the Exchange, its market structure, members, issuers, investors or the Canadian capital markets or otherwise raises regulatory or public interest concerns and should be subject to public comment.

3. Scope

The Exchange and Staff will follow the process for review and approval set out in this Protocol for all Changes, new Rules and Rule amendments.

4. Board Approval

The Exchange's board of directors, or a duly authorized committee of the board, must approve all Rules prior to their submission under this Protocol.

5. Waiving or Varying the Protocol

- (a) The Exchange may submit a written request with Staff to waive or vary any part of this Protocol. The request must provide reasons why granting the waiver is appropriate in the circumstances.
- (b) Staff will use their best efforts to provide to the Exchange within five business days of receipt of its request either:
 - (i) written notice that Staff object to granting the waiver or variation; or
 - (ii) written notice that the waiver or variation has been granted by Staff.

6. Commencement of Exchange Operations

The Exchange must not begin operations until a reasonable period of time after the Exchange is notified that it has been recognized by the Commission.

7. Materials to be Submitted and Timelines

- (a) Prior to the implementation of a Fee Change, Public Interest Rule or Significant Change, the Exchange will provide Staff with the following materials:
 - (i) a cover letter that, together with the notice for publication submitted under paragraph (a)(ii), if applicable, fully describes:
 - (A) the proposed Fee Change, Public Interest Rule or Significant Change;
 - (B) the expected date of implementation of the proposed Fee Change, Public Interest Rule or Significant Change;
 - (C) the rationale for the proposal and any relevant supporting analysis;
 - (D) the expected impact, including the quantitative impact, of the proposed Fee Change, Public Interest Rule or Significant Change on the market structure, members and, if applicable, on investors, issuers and the capital markets;
 - (E) the expected impact of the Fee Change, Public Interest Rule or Significant Change on the Exchange's compliance with Ontario securities law requirements and in particular requirements for fair access and maintenance of fair and orderly markets;
 - (F) a summary of any consultations, including consultations with external parties, undertaken in formulating the Fee Change, Public Interest Rule or Significant Change, and the internal governance process followed to approve the Rule or Change;
 - (G) for a proposed Fee Change:
 - 1. the expected number of marketplace participants likely to be subject to the new fee, along with a description of the costs they will incur; and
 - 2. if the proposed Fee Change applies differently across types of marketplace participants, a description of this difference, how it impacts each class of affected marketplace participant, including, where applicable, numerical examples, and any justification for the difference in treatment.
 - (H) if the Public Interest Rule or Significant Change will require members or service vendors to modify their systems after implementation of the Rule or Change, the expected impact of the Rule or Change on the systems of members and service vendors together with an estimate of the amount of time needed

to perform the necessary work and how the estimated amount of time was deemed reasonable in light of the expected impact of the Public Interest Rule or Significant Change on the Exchange, its market structure, members, issuers, investors or the Canadian capital markets;

- (I) where the proposed Significant Change is not a Significant Change subject to Public Comment, the rationale for why the proposed Significant Change is not considered a Significant Change subject to Public Comment;
 - (J) a discussion of any alternatives considered; and
 - (K) if applicable, whether the proposed Fee Change, Significant Change or Public Interest Rule would introduce a fee model, feature or Rule that currently exists in other markets or jurisdictions;
- (ii) for a proposed Public Interest Rule, Significant Change subject to Public Comment or Fee Change subject to Public Comment, a notice for publication that generally includes the information required under paragraph (a)(i), except information that, if included in the notice, would result in the public disclosure of sensitive information or confidential or proprietary financial, commercial or technical information;
 - (iii) for a proposed Public Interest Rule, the text of the Rule and a blacklined version of the Rule indicating changes to any existing Rules, and if supplementary material relating to the Rule is contained in Form 21-101F1, blacklined and clean copies of Form 21-101F1; and
 - (iv) for a proposed Fee Change or Significant Change, blacklined and clean copies of Form 21-101F1 showing the proposed Change.
- (b) The Exchange will submit the materials set out in subsection (a)
 - (i) at least 45 days prior to the expected implementation date of a proposed Public Interest Rule or Significant Change; and
 - (ii) at least fifteen business days prior to the expected implementation date of a proposed Fee Change.
 - (c) For a Housekeeping Rule, the Exchange will provide Staff with the following materials:
 - (i) a cover letter that fully describes the Rule and indicates that it was classified as a Housekeeping Rule and provides an analysis of the rationale for the classification, and the date or proposed date of implementation of the Rule;
 - (ii) the text of the Rule and a blacklined version of the Rule indicating changes to any existing Rules;
 - (iii) if supplementary material relating to the Rule is contained in Form 21-101F1, blacklined and clean copies of Form 21-101F1; and
 - (iv) a notice for publication on the OSC website or in the OSC Bulletin that contains the information in paragraph (ii) as well as the implementation date for the Rule and indicates that the Rule has been classified as a Housekeeping Rule and was not published for comment.
 - (d) For a Housekeeping Change, the Exchange will provide Staff with the following materials:
 - (i) a cover letter that indicates that the change was classified as a Housekeeping Change and, for each Housekeeping Change, provides an analysis of the rationale for the classification and the expected or actual date of implementation of the Change; and
 - (ii) blacklined and clean copies of Form 21-101F1 showing the Change.
 - (e) The Exchange will submit the materials set out in subsection (d) by the earlier of
 - (i) the Exchange's close of business on the 10th calendar day after the end of the calendar quarter in which the Housekeeping Change was implemented; and
 - (ii) the date on which the Exchange publicly announces a Housekeeping Change, if applicable.

8. Review by Staff of notice and materials to be published for comment

- (a) Within 5 business days of the receipt of the notice and materials submitted by the Exchange relating to a Public Interest Rule, Significant Change subject to Public Comment or Fee Change subject to Public Comment, in accordance with

subsection 7(a), Staff will review the notice and materials to ensure that they contain an adequate level of detail, analysis and discussion to elicit meaningful public comment, and will promptly notify the Exchange of any deficiency requiring a resubmission of the notice and/or materials.

- (b) Where the notice and/or materials are considered by Staff to be deficient, the Exchange will amend and resubmit the notice and/or materials accordingly, and the date of resubmission will serve as the submission date for the purposes of this Protocol.
- (c) Where the notice and materials are considered by Staff to be adequate for publication, Staff will proceed with the processes set out in section 9.

9. Publication of a Public Interest Rule, Significant Change Subject to Public Comment or Fee Change Subject to Public Comment

- (a) As soon as practicable after the receipt of the notice and materials submitted by the Exchange relating to a Public Interest Rule, Significant Change subject to Public Comment or Fee Change subject to Public Comment, in accordance with subsection 7(a), Staff will publish in the OSC Bulletin and/or on the OSC website, the notice prepared by the Exchange, along with a notice prepared by Staff, if necessary, that provides market participants with an opportunity to provide comments to Staff and to the Exchange within 30 days from the date the notice appears in the OSC Bulletin or on the OSC website, whichever comes first.
- (b) If public comments are received
 - (i) the Exchange will forward copies of the comments promptly to Staff; and
 - (ii) the Exchange will prepare a summary of the public comments and a response to those comments and provide them to Staff promptly after the end of the comment period.

10. Review and Approval Process for Proposed Fee Changes, Public Interest Rules and Significant Changes

- (a) Staff will use their best efforts to complete their review of a proposed Fee Change, Public Interest Rule or Significant Change within
 - (i) 45 days from the date of submission of a proposed Public Interest Rule or Significant Change; and
 - (ii) fifteen business days from the date of submission of a proposed Fee Change.
- (b) Staff will notify the Exchange if they anticipate that their review of the proposed Fee Change, Public Interest Rule or Significant Change will exceed the timelines in subsection (a).
- (c) If Staff have material comments or require additional information to complete their review of a proposed Fee Change, Public Interest Rule or Significant Change, Staff will use best efforts to provide the Exchange with a comment letter promptly by the end of the public comment period for a Public Interest Rule, Significant Change subject to Public Comment or Fee Change subject to Public Comment, and promptly after the receipt of the materials submitted under section 7 for all other Changes.
- (d) The Exchange will respond to any comments received from Staff in writing.
- (e) Unless Staff agree to an extension of time, if the Exchange fails to respond to Staff's comments within 120 days after the receipt of Staff's comment letter, the Exchange will be deemed to have withdrawn the proposed Fee Change, Public Interest Rule or Significant Change. If the Exchange wishes to proceed with the Fee Change, Public Interest Rule or Significant Change after it has been deemed withdrawn, the Exchange will have to be re-submit it for review and approval in accordance with this Protocol.
- (f) Upon completion of Staff's review of a Fee Change, Public Interest Rule or Significant Change, Staff will submit the Change or Rule to the Director or, in the circumstances described in subsection (g), to the Commission, for a decision within the following timelines:
 - (i) for a Public Interest Rule, Significant Change subject to Public Comment or Fee Change subject to Public Comment, the later of 45 days from the date that the related materials were published for comment and the date that Staff's comments and public comments, including any concerns identified, have been adequately addressed by the Exchange;
 - (ii) for any other Significant Change, the later of 45 days from the date of submission of the Change and the date that Staff's comments and any concerns identified have been adequately addressed by the Exchange; or

- (iii) for any other Fee Change, the later of fifteen business days from the date of submission of the change and the date that Staff's comments and any concerns identified have been adequately addressed by the Exchange.
- (g) A Fee Change, Public Interest Rule or Significant Change may be submitted to the Commission for a decision, within the timelines in subsection (f),
 - (i) if the proposed Fee Change, Public Interest Rule or Significant Change introduces a novel feature to the Exchange or the capital markets;
 - (ii) if the proposed Fee Change, Public Interest Rule or Significant Change raises significant regulatory or public interest concerns; or
 - (iii) in any other situation where, in Staff's view, Commission approval is appropriate.
- (h) Staff will promptly notify the Exchange of the decision.
- (i) If a Public Interest Rule, Significant Change subject to Public Comment or Fee Change subject to Public Comment is approved, Staff will publish the following documents in the OSC Bulletin and/or on the OSC website promptly after the approval:
 - (i) a notice indicating that the proposed Rule or Change is approved;
 - (ii) the summary of public comments and responses prepared by the Exchange, if applicable; and
 - (iii) if non-material changes were made to the version published for public comment, a brief description of these changes prepared by the Exchange and a blacklined copy of the revised Rule or Change highlighting the revisions made.

11. Review Criteria for a Fee Change, Public Interest Rule and Significant Change

- (a) Staff will review a proposed Fee Change, Public Interest Rule or Significant Change to assess whether it is in the public interest for the Director or the Commission to approve the Rule or Change. In making this determination, Staff will have regard for the purposes of the *Securities Act* (Ontario) (Act) as set out in section 1.1 of the Act. The factors that Staff will consider in making their determination also include whether:
 - (i) the Rule or Change would impact the Exchange's compliance with Ontario securities law;
 - (ii) the Exchange followed its established internal governance practices in approving the proposed Rule or Change;
 - (iii) the Exchange followed the requirements of this Protocol and has provided sufficient analysis of the nature, purpose and effect of the Rule or Change; and
 - (iv) the Exchange adequately addressed any comments received.

12. Effective Date of a Fee Change, Public Interest Rule or Significant Change

- (a) A Public Interest Rule or Significant Change will be effective on the later of:
 - (i) the date that the Exchange is notified that the Change or Rule is approved;
 - (ii) if applicable, the date of publication of the notice of approval on the OSC website;
 - (iii) if applicable, the implementation date established by the Exchange's Rules, agreements, practices, policies or procedures; and
 - (iv) the date designated by the Exchange.
- (b) The Exchange must not implement a Fee Change unless the Exchange has provided stakeholders, including marketplace participants, issuers and vendors, as applicable, with notice of the Fee Change at least five business days prior to implementation.
- (c) Where a Significant Change involves a material change to any of the systems, operated by or on behalf of the Exchange, described in section 12.1 of National Instrument 21-101, the Significant Change will not be effective until a reasonable period of time after the Exchange is notified that the Significant Change is approved.

- (d) In determining what constitutes a reasonable period of time for purposes of implementing a Significant Change under paragraph (c), Staff will consider how the Significant Change will impact the Exchange, its market structure, members, issuers, investors or the Canadian capital markets or otherwise raises regulatory or public interest concerns.
- (e) The Exchange must notify Staff promptly following the implementation of a Public Interest Rule, Significant Change or Fee Change that becomes effective under subsections (a) and (b).
- (f) Where the Exchange does not implement a Public Interest Rule, Significant Change or Fee Change within 180 days of the effective date of the Fee Change, Public Interest Rule or Significant Change, as provided for in subsections (a) and (b), the Public Interest Rule, Significant Change or Fee Change will be deemed to be withdrawn.

13. Significant Revisions and Republication

- (a) If, subsequent to its publication for comment, the Exchange revises a Public Interest Rule, Significant Change subject to Public Comment or Fee Change subject to Public Comment in a manner that results in a material change to the proposed substance or effect of the Rule or Change, Staff will, in consultation with the Exchange, determine whether or not the revised Rule or Change should be published for an additional 30-day comment period.
- (b) If a Public Interest Rule, Significant Change subject to Public Comment or Fee Change subject to Public Comment is republished under subsection (a), the request for comments will include a blacklined version marked to the originally published version, a summary of comments and responses prepared by the Exchange, and an explanation of the revisions and the supporting rationale for the revisions.

14. Withdrawal of a Fee Change, Public Interest Rule or Significant Change

- (a) If the Exchange withdraws a Fee Change, Public Interest Rule or a Significant Change that was previously submitted, it will provide a written notice of withdrawal to Staff.
- (b) If the notice of withdrawal relates to a Public Interest Rule, Significant Change subject to Public Comment or Fee Change subject to Public Comment, Staff will publish the notice of withdrawal in the OSC Bulletin and/or on the OSC website as soon as practicable.
- (c) If a Public Interest Rule, Significant Change subject to Public Comment or Fee Change subject to Public Comment is deemed to have been withdrawn as provided in subsection 10(e), Staff will prepare and publish a notice informing market participants that the Exchange did not proceed with the Rule or Change.

15. Effective Date of a Housekeeping Rule or Housekeeping Change

- (a) Subject to subsections (c) and (d), a Housekeeping Rule will be effective on the later of
 - (i) the date of the publication of the notice to be published on the OSC website or in the OSC Bulletin, in accordance with subsection (e), and
 - (ii) the date designated by the Exchange.
- (b) Subject to subsections (c) and (d), a Housekeeping Change will be effective on the date designated by the Exchange.
- (c) Staff will review the materials submitted by the Exchange for a Housekeeping Change or Housekeeping Rule to assess the appropriateness of the categorization of the Rule or Change as housekeeping within five business days from the date that the Exchange submitted the documents in accordance with subsections 7(c) and 7(d). The Exchange will be notified in writing if there is disagreement with respect to the categorization of the Rule or Change as housekeeping.
- (d) If Staff disagree with the categorization of the Rule or Change as housekeeping, the Exchange will immediately repeal the Change, if applicable, submit the proposed Rule as a Public Interest Rule or the proposed Change as a Significant Change, and follow the review and approval processes described in this Protocol as applying to a Public Interest Rule or Significant Change, including those processes applicable to a Significant Change subject to Public Comment, if applicable.
- (e) If Staff do not disagree with the categorization of the Rule, Staff will publish a notice to that effect in the OSC Bulletin or on the OSC website as soon as is practicable.

16. Immediate Implementation of a Public Interest Rule or Significant Change

- (a) The Exchange may need to make a Public Interest Rule or Significant Change effective immediately where the Exchange determines that there is an urgent need to implement the Rule or Change to maintain fair and orderly markets, or because

of a substantial and imminent risk of material harm to the Exchange, its members, other market participants, issuers or investors.

- (b) When the Exchange determines that immediate implementation is necessary, it will advise Staff in writing as soon as possible, but in any event, at least five business days prior to the proposed implementation of the Public Interest Rule or Significant Change. The written notice will include the expected effective date of the Public Interest Rule or Significant Change and an analysis to support the need for immediate implementation. An application for an exemption from the 45-day advance filing requirements in National Instrument 21-101 must follow within five business days following the Exchange receiving notice that Staff agree with immediate implementation of the Public Interest Rule or Significant Change.
- (c) If Staff do not agree that immediate implementation is necessary, Staff will promptly notify the Exchange, in writing, of the disagreement no later than the end of the third business day following submission of the notice under subsection (b). If the disagreement is not resolved, the Exchange will submit the Public Interest Rule or Significant Change in accordance with the timelines in section 7.

17. Review of a Public Interest Rule or Significant Change Implemented Immediately

A Public Interest Rule or Significant Change that has been implemented immediately in accordance with section 16 will be published, if applicable, and reviewed and approved by the Director or by the Commission in accordance with the procedures set out in section 10, with necessary modifications. If the Director or the Commission does not approve the Public Interest Rule or Significant Change, the Exchange will immediately repeal the Rule or Change and inform its members of the decision.

18. Application of Section 21 of the *Securities Act* (Ontario)

The Commission's powers under subsection 21(5) of the *Securities Act* (Ontario) are not constrained in any way, notwithstanding a Rule or Change having been approved under this Protocol.