

**AEQUITAS NEO EXCHANGE  
REQUEST FOR COMMENTS  
APPEAL PROCEDURES**

**September 24, 2015**

**Introduction**

Aequitas NEO Exchange Inc. (“NEO Exchange”) is publishing for comment proposed appeal procedures (the “Appeal Procedures”) in accordance with Schedule 5 (the “Protocol”) of its recognition order. Pursuant to the recognition order, the Appeal Procedures were filed with the Ontario Securities Commission (“OSC”) as a Rule under the Protocol and, subject to any changes resulting from comments received, they will be effective upon publication of the notice of approval on the OSC’s website.

**Rationale for/Impact of the Appeal Procedures**

Appeal rights are set out in Part XII of the listing manual, Part XIV of the trading policies and section 20 of the member agreement (the latter regarding arbitration) of NEO Exchange. The Appeal Procedures provide information on the process for appealing decisions of NEO Exchange. They are required to ensure this process is clear, and straightforward to follow, to support fair access and the maintenance of fair and orderly markets. They do not require any system changes by market participants.

**Summary of the Appeal Procedures**

Issuers, members and other persons adversely impacted by a decision of NEO Exchange have a right to appeal such decision. They may appeal to a management committee, or to NEO Exchange’s board of directors (“Board”) or a committee of the Board, as set out in the procedures, which include a process of expedited reviews where an issue is time-sensitive. The Appeal Procedures also reinforce that decisions by the Investment Industry Regulatory Organization of Canada (“IIROC”), the self-regulatory organization carrying out market regulation on behalf of NEO Exchange, must be appealed through IIROC’s appeal process, and that the Appeal Procedures may not be used to appeal a decision of the Board – but a party may seek a review of such a decision by a securities regulatory authority.

**Text of the Appeal Procedures**

The text of the proposed Appeal Procedures is attached at Appendix A.

### **Expected Impact on Market Structure, Members, Issuers and Investors**

The Appeal Procedures do not create any new nor waive any existing obligations. They are administrative in nature and are intended to assist members, issuers and other affected parties seeking to appeal a decision of NEO Exchange. The only foreseeable impact would be a positive one – that of enhancing the ability of NEO Exchange to demonstrate its due process to its users. There is no anticipated impact on the market structure of NEO Exchange or the capital markets generally.

### **Expected Impact of the Appeal Procedures on NEO Exchange's Compliance with Ontario Securities Laws**

The Appeal Procedures are one of the elements of NEO Exchange's process for meetings it due process obligations under its recognition order. Although the right to appeal already exists in certain of NEO Exchange's rules, as noted above, these Appeal Procedures will help NEO Exchange ensure fair access to its products and services and maintenance of fair and orderly markets.

### **Comments**

Comments should be provided, in writing, no later than October 26, 2015 to:

Cindy Petlock  
General Counsel & Corporate Secretary  
Aequitas NEO Exchange Inc.  
155 University Avenue, Suite 400  
Toronto, ON M5H 3B7  
e-mail: [legal@aequin.com](mailto:legal@aequin.com)

with a copy to:

Market Regulation Branch  
Ontario Securities Commission  
20 Queen Street West, 22nd Floor  
Toronto, ON M5H 3S8  
e-mail: [marketregulation@osc.gov.on.ca](mailto:marketregulation@osc.gov.on.ca)

Please note that, unless confidentiality is requested, all comments will be made publicly available.

**APPENDIX A**

**AEQUITAS NEO EXCHANGE PROPOSED APPEAL PROCEDURES**



## APPEAL PROCEDURES

Aequitas NEO Exchange Inc. (the “**Exchange**”) has established appeals policies in its trading policies (the “**Trading Policies**”) and listing manual (the “**Listing Manual**”). This document is intended to assist any Person affected by a Decision of the Exchange, including entities applying for membership or listing, Members and Listed Issuers, in understanding the Exchange’s appeals process. Terms which are capitalized but not defined have the meanings attributed to them in the Trading Policies or Listing Manual, as applicable.

Both the Trading Policies and the Listing Manual provide that a Person adversely affected by a Decision of the Exchange, other than a Decision of the board of directors of the Exchange (the “**Board**”) or a Decision of the Market Regulator, i.e., the Investment Industry Regulatory Organization of Canada, may appeal that Decision to the Board. Decisions of the Board are not subject to further appeal through the facilities of the Exchange. However, a Person adversely affected by an appeal Decision may seek a review of such Decision with the applicable securities regulatory authority, and Members may choose to follow the arbitration procedures set out in the Member Agreement. Decisions of the Market Regulator are subject to its appeal procedures.

It is the goal of the Exchange to provide appellants with a timely resolution to their issues and, in general, to provide a final written Decision within sixty (60) days of the date of submission of the appeal. However, this is not a guarantee; additional time may be required to issue a Decision, especially if the Exchange requires further information from the appellant.

The appeals process outlined below applies to all types of appeals. Appellants should also refer to the following documents where the appeal policies are established:

- A. Part XII of the Listing Manual – for appeals by Listed Issuers or other Persons adversely affected by a Decision;
- B. Part XIV of the Trading Policies – for appeals by Members or other Persons adversely impacted by a Decision; and
- C. Section 20 of the Member Agreement – for dispute resolution procedures.

### Appeals Process

1. Appeals must be made in writing as soon as possible after the Decision being appealed, and in any event must be received by the Exchange within thirty (30) calendar days of the date the Decision is provided or made available to the appellant. For a matter with pre-determined time lines, such as a delisting, notice of appeal must be given within ten (10) days of notification from the Exchange (i.e. if a delisting, as soon as possible after the notice of delisting so that the appeal can be heard prior to the expiry of the Exchange’s suspension period and the resulting automatic delisting). All appeals must be written submissions that include:
  - (a) details sufficient to describe the nature, circumstances, date and effect of the Decision being challenged;
  - (b) a concise statement of the decision and/or relief requested and the rationale or justification for such decision and/or relief;

- (c) an original, facsimile copy or other electronic copy of the authorized signature of the appellant (so long as any copy is in a form that is accessible by the addressee so as to be usable for subsequent reference and capable of being retained by the addressee);
  - (d) whether the applicant is seeking a review by management or an appeal to the Board (which is at the applicant's discretion, subject to section (3) below); and
  - (e) whether the applicant is seeking an expedited review under section (6) below.
2. Submissions must be delivered to the corporate secretary of the Exchange by hand, registered mail or electronic mail at legal@aequin.com.
  3. Provided the corporate secretary is satisfied that the appeal contains all the requirements listed in subsections 1(a)-(d), he or she will provide the submission to a review panel ("**Review Panel**") composed of either trading management plus a member of the Exchange's regulatory staff, or listing services management plus a member of the Exchange's regulatory staff, as applicable, or to the Board or a committee thereof for an appeal, as applicable, within ten (10) business days from his or her receipt of all necessary information. Each Review Panel will have at least two (2) members, one of whom will be regulatory staff, and if members of management/regulatory staff were involved in the decision being appealed they will not participate in the review. If necessary, the submission will be provided to the Board or a committee of the Board. If the submissions are provided to a committee of the Board, it will consist of no less than three (3) directors of the Exchange, and in most cases will be the Regulatory Oversight Committee ("**Designated Committee**"). The corporate secretary will notify the appellant promptly after forwarding the materials.
  4. Subject to section 5, within forty-five (45) calendar days of receiving the appeal from the corporate secretary, the applicable Review Panel, or the Board or Designated Committee will review and decide the appeal. The decision will be rendered in writing and communicated to the appellant on a timely basis and, in any event, within the forty-five (45) calendar day period.
  5. Where a Member or Listed Issuer is not a party to the appeal, but is the subject of such appeal, the Member or Listed Issuer will be notified of the appeal and granted the opportunity to participate and provide submissions. In these circumstances, the period set out in section 4 for rendering and communicating the decision to the appellant will be extended to sixty (60) calendar days.
  6. Expedited reviews are available for appeals of time-sensitive matters, e.g. transactions such as take-over bids, rights offerings, and other types of prospectus offerings. The corporate secretary will, on a best efforts basis, provide the submissions and organize the review of the appeal by the applicable decision-maker within five (5) business days of the receipt of such submissions. The Decision will be provided orally by the applicable business line contact and by email as soon as practicable, with written reasons to follow within thirty (30) days.
  7. The Board or Designated Committee, in its sole discretion, may reasonably extend any of the time periods specified above upon notice to the appellant.