



**Neo Exchange Inc.**

# Trading Notice

Date: July 25, 2019

Notice #: 2019-007

## **Approval of Proposal to Trade Foreign-Listed Structured Products**

The Ontario Securities Commission (the "OSC") has approved amendments proposed by Neo Exchange Inc. ("NEO" or "NEO Exchange") to its Form 21-101F1 to allow NEO to trade certain foreign-listed structured products ("Foreign-Listed Structured Product Notes") on an unlisted basis in accordance with Schedule 5 to NEO's recognition order (the "Protocol"). The proposal was considered a Significant Change subject to Public Comment under the Protocol and was published for comment on August 9, 2018 (see Trading Notice 2018-027). Two comments were received, the summary of which is attached to this notice as Appendix A.

As part of its approval, the OSC imposed the following conditions:

1. NEO Exchange will only make notes available for trading consistent with Phase 1, as described in the Notice, with the exception of the alternative of the notes' availability upon reaching 10% of their life-time, which has been removed. In addition, these notes will not include single stock notes.
2. NEO Exchange will only make Foreign-Listed Structured Product Notes available for trading that would not be considered novel if a Canadian bank offered a similar product, unless such notes are submitted to OSC and AMF staff for their review in advance. Otherwise, the notes must be similar to those currently offered by Canadian banks. If NEO is uncertain whether a particular note would be considered novel in Canada, it will consult with OSC and AMF staff first before making the note available for trading.
3. NEO Exchange will report regularly to OSC and AMF staff regarding trading volumes relative to those of the foreign listing exchange and total notes issued and will include a high level description of the types of notes that appear most popular. NEO will also provide any other information requested by OSC staff to assist in determining to what extent an issuer of Foreign-Listed Structured Product Notes may be active in our jurisdiction beyond its Foreign-Listed Structured Notes just being available for secondary market trading.

4. NEO will not trade any Foreign-Listed Structured Product Notes that are in distribution in Canada unless the issuer has filed a prospectus and obtained a receipt from one of the Canadian securities regulatory authorities.
5. NEO Exchange will cease making any new Foreign-Listed Structured Product Notes available for trading upon request by OSC staff.
6. NEO Exchange will cease trading any existing Foreign-Listed Structured Product Notes, due to an investor protection concern, based on a timeline and approach agreed between NEO Exchange and OSC staff.

NEO anticipates that it will begin trading Foreign-listed Structured Product Notes in Q1/2020, following notice of the commencement of trading. The OSC Approval Notice can be found [here](#) and information relating to the Foreign-Listed Structured Product Notes will be made available on the NEO Exchange website as from the commencement date.

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## Appendix A

### Summary of Comments

#### NEO Exchange Proposal to Trade Foreign-Listed Structured Product Notes (“Foreign-Listed Structured Products” or “Foreign Notes”)

We received two comment letters: one from Davies Ward Phillips and Vineberg (“Davies”) and one from the Bank of Montreal, CIBC, National Bank, RBC and TD (the “Banks”).

Comment	NEO Response
<p>1. Supportive of initiatives to broaden the range of investment opportunities available to Canadian investors, including retail. (Davies)</p>	<p>We appreciate the acknowledgement of the purpose of our Foreign-Listed Structured Products initiative (the “Proposal”).</p>
<p>2. Concerns over investor protection and easier access for foreign issuer to the Canadian markets. (Davies/Banks)</p> <p>Offering Foreign-Listed Structured Products for trading where they would not be regulated by Canadian securities authorities could be detrimental to public investor protection and unfair from a competition standpoint for the Canadian Banks, as discussed below. (Banks)</p> <p>Specifically:</p> <ul style="list-style-type: none"> <li>Investors would not necessarily have access to prospectus level disclosure regarding Foreign Notes or their issuers that is required for Canadian issuers of similar products (Davies/Banks)</li> </ul>	<p>Canadian investors have access to publicly-traded foreign securities today through their intermediaries and Canadian dealers are currently facilitating streamlined access to securities traded on US markets. Unless they are inter-listed, none of these foreign securities are regulated by the Canadian securities regulatory authorities.</p> <p>Although the US may be distinguished to some degree due to the level of familiarity with its regulatory regime, we note that in accordance with the current rule set, we must (and have described in the Proposal how we will) ensure that the foreign jurisdictions where the Foreign Notes are listed have similar/adequate securities regulatory regimes.</p> <p>The concept of a Canadian marketplace trading foreign listed securities has been embedded in securities regulation for many years. Provisions in National Instrument 21-101 <i>Marketplace Operation</i> (NI 21-101) relating to “foreign exchange-traded securities” clearly allow the trading of foreign listed securities that are not regulated in Canada, so long as they are regulated by another IOSCO member jurisdiction. Two marketplaces (Omega Securities and TSX) have sought and received approval to trade US listed securities as foreign exchange-traded securities, allowing US issuers to be traded on venues in Canada without becoming reporting issuers. We could find no record of comments being raised in the context of those proposals about the impact on investor protection or a competitive disadvantage to Canadian issuers.</p> <p>Pursuant to securities law generally, investors buying securities in the secondary market do not receive a prospectus. However, as stated in the Proposal, we plan to ensure that information that the issuer provides in the foreign jurisdiction is available to investors, including prospectus level disclosure and performance information.</p>

<ul style="list-style-type: none"> <li>• Pursuant to NI 21-101 an investor buying a Foreign-Listed Structured Product would not receive a prospectus (Banks)</li> <li>• Such disclosure would not necessarily be in <i>either</i> English or French (Davies/Banks)</li> <li>• Will result in avoidance of Canadian securities laws, and the standards required by Canadian securities regulatory authorities, both in form and substance, may not be applied (Banks)</li> <li>• Disclosure regarding material Canadian tax consequences to holders is unlikely to be available; this tax can be complex, and it could prove challenging for Canadian investors to produce their tax statement without guidance. (Davies/Banks)</li> <li>• Also have concerns about the creditworthiness and commitment of issuers of Foreign-Listed Structured Products to the Canadian market, as explained further below. (Banks)</li> </ul>	<p>NEO plans to make this and ongoing disclosure information accessible through our website.</p> <p>We plan to select products for which there is disclosure in English and/or French.</p> <p>Part of the NI 21-101 approach is to ensure it is clear that these products are not regulated in Canada, in reliance on the regulatory standards in IOSCO member countries. A disclosure statement to that effect must be provided to each marketplace participant prior to accepting the first order for a foreign-exchange traded security. Given know-your-product and suitability obligations, we would expect our members to make this clear to their clients.</p> <p>NEO Exchange will ensure that summary information regarding tax considerations is posted on our website to assist investors and their investment advisor in understanding the range of tax issues and to highlight the type of information they will need and that they should consult their tax advisors. None of NEO nor, generally any issuers of structured notes, are qualified to give tax advice to individual investors, so we believe that this approach will not increase any tax-related risks.</p> <p>See response #14.</p>
<p>3. Canadian securities regulators have actively regulated issuers of structured product notes. They require the pre-clearance of “novel” products; prohibit issuers from linking securities to specified underlying interests, including most foreign securities, actively-managed investment funds and proprietary indices, without first pre-clearing such securities; require that marketing materials comply with strict disclosure requirements; prohibit disclosure of hypothetical performance data (in contrast to the regime that has been recommended by IOSCO and adopted by the US SEC); and mandate disclosure regarding suitability, the fair value of the notes on the date of issue, conflicts of interest and fees and expenses. (Davies/Banks)</p> <p>The offering of structured notes in Canada is regulated by numerous rules and</p>	<p>The Proposal contemplates an approval process for new types of products and we are working on a protocol with OSC staff to formalize that process. This will provide OSC staff with the ability to apply any restrictions they feel are required to the products we cross-trade on NEO. We highlight the fact that a number of the restrictions noted by the commenters flow from the fact that these products are traded bilaterally between the financial institutions and their clients without transparency or regulatory oversight of the transaction, which would not be the case for Foreign-Listed Structured Products traded on NEO.</p>

<p>requirements designed to protect investors. These include, in particular:</p> <ul style="list-style-type: none"> <li>• Prospectus-level disclosure regarding the issuer and the structured product notes</li> <li>• Pre-clearing of “novel” products with regulators</li> <li>• Restrictions on the types of underlying structure</li> <li>• Restrictions on the types and home jurisdiction of underlying interest</li> <li>• Disclosure requirements regarding fees and expenses, underlying interest performance data,</li> <li>• Calculation examples, on-going information and conflicts of interest</li> <li>• Restrictions on the marketing materials provided to investors</li> <li>• Scheme of statutory civil liability for primary market disclosure</li> <li>• Scheme of statutory civil liability for secondary market disclosure</li> <li>• French language disclosure requirements for investors in Québec (Banks)</li> </ul> <p>Canadian investors purchasing Foreign-Listed Structured Products on NEO would not have any rights of action in Canada against Foreign-Listed Structured Products issuers for misrepresentations in offering and marketing materials, nor would they enjoy any rights of action with regards to secondary market disclosure. (Banks)</p>	<p>Please see our responses to comments in item #2 regarding prospectus-level disclosure, disclosure of information on NEO’s website, and French translation, and the above response relating to preclearance of products with OSC staff, including any prohibitions/restrictions.</p> <p>Neither the issuer nor NEO will provide marketing materials to investors; however, NEO will provide detailed information on its website, including links to foreign issuers’ and exchanges’ websites to ensure the above-noted level of disclosure/information is readily available to Canadian dealers and investors.</p> <p>Civil liability for primary market disclosure is not applicable, as the Proposal is related only to secondary market trading of these securities. Please see our response #10 relating to secondary market liability.</p> <p>For the other points, see responses #2 and #10.</p>
<p>4. Issuers of Foreign Notes would not be subject to the continuous reporting requirements applicable to reporting issuers in Canada, nor the additional disclosure requirements applied under CSA Staff Notice 44-305 <i>2015 Update – Structured Notes Distributed under the Shelf Prospectus System</i> (CSA Staff Notice 44-305)(Davies)</p>	<p>Reviewing the regulatory environment is part of the exercise NEO will follow when choosing the foreign exchanges on which the Foreign-Listed Structured Products are listed, in part to ensure that adequate disclosure will be available in the foreign jurisdiction, as noted above in responses #2 and #3. Further, since these are publicly-traded securities, there will be more information available than for the bilateral notes offered in Canada at present.</p>
<p>5. Foreign Notes would not necessarily be subject to a rigorous vetting process comparable to that which applies to domestic issuance of prospectus-qualified structured notes on the initial clearance of the shelf prospectus establishing a note</p>	<p>See response #3. We reiterate that part of NEO’s process will be to limit the products to those listed on exchanges in IOSCO jurisdictions, and that a protocol for novel products is being developed with OSC staff. It should be reinforced that these are products traded on secondary markets in the foreign jurisdiction, not primary issuances,</p>

<p>program and thereafter on novel offerings. (Davies)</p>	<p>unlike the similar products offered in Canada by the Banks.</p>
<p>6. It is not clear that the regulatory regime for Canadian structured notes, which mandates the provision of on-going information regard the notes, including, in CSA Staff Notice 44-305, the type of information issuers are expected to include on their websites (composition of the underlying portfolio, current and historical daily bid prices, daily indicative value, amount of any early trading charges, changes to the underlying portfolio and distributions), would apply. (Davies/Banks)</p>	<p>Much of the information required under CSA Staff Notice 44-305 (CSA SN 44-305) would not apply, since the securities will be publicly traded.</p> <p>We note that part of NEO’s stated mandate is to focus on transparency to investors and their dealers for all of our products. Since the Foreign-Listed Structured Products will be listed securities, there will be information available on the foreign exchange’s website and information available from the issuer that meet the foreign jurisdiction’s requirements. We will include materials on our website about the products we cross-trade (whether via links to issuers’ or exchanges’ websites or by posting information that we believe is helpful to investors), as applicable.</p> <p>We also note that the CSA confirmed in CSA SN 44-305 that it considered the report developed by IOSCO’s Task Force on Unregulated Financial Markets and Products, which was formed to analyze trends and developments in the retail structured product market and related regulatory issues, in developing the regulatory approach set out in the staff notice, which provides some comfort that the IOSCO members are approaching these products in similar ways.</p>
<p>7. In addition, it will be necessary for NEO to market and promote the Foreign-Listed Structured Products to support trading and generate public interest for this new line of business. Yet, investors and advisors will likely not receive suitable education or disclosure about material attributes of such products. Foreign-Listed Structured Products could introduce different terminology, structures, risks and issuer creditworthiness that could create confusion for Canadian investors. The Canadian banks are active in product education, and dedicated to after-sales support for clients... (Banks)</p>	<p>We agree that NEO will need to provide information and make materials readily available for dealers, advisors and investors. We expect that the education and support for clients noted by the commenters will continue to be carried out by investment dealers as part of their know-your-client and know-your-product obligations. We will ensure we assist dealers in understanding the products so that they can meet these obligations.</p>
<p>8. Question the benefit of the limited price transparency afforded to purchasers as a result of the foreign listing.</p> <ul style="list-style-type: none"> <li>The mere listing on a foreign exchange does not guarantee a robust trading market on that exchange. Accordingly, the informational content of the trading price of Foreign Notes may be of only limited value to Canadian investors.</li> </ul>	<p>Structured notes, including the Foreign-Listed Structured Products we are proposing to cross-trade, will have a variety of trading profiles. We are not suggesting that the value of the Proposal is that the foreign listing guarantees “a robust trading market on that exchange”; we are seeking to provide more choice to Canadian investors by providing access to foreign securities that trade on foreign</p>

<ul style="list-style-type: none"> <li>• Structured notes tend to be long-term investments, used in the context of an investor’s overall investment portfolio goals, rather than a product that is traded based on price fluctuations.</li> <li>• Suggest that the investor needs full transparency regarding the structure of the note itself and the issuer of the note, rather than the trading price. A meaningful proxy for trading price of a structured note is the indicative value at any given time which is required to be posted by issuers of Canadian prospectus-qualified structured notes on a daily basis. However, pricing information alone does not provide the transparency regarding the structure of the note that is required by an investor to make an informed investment decision regarding the Foreign Notes. (Davies)</li> </ul>	<p>exchanges. Also, as noted above, other information about the notes will be made available.</p> <p>Trading on exchange provides real-time market data availability, which will simply allow investors to see where the prices are at any given point and to have the comfort that they are receiving the same price as any other investor. It also allows investors to exit their positions more easily and without penalty.</p> <p>As noted in several responses above, there will be transparency regarding the structure and issuer of the notes. As is always the case with OTC versus public market trading, it is because of the absence of a posted bid-ask spread on-exchange that there is a need for a proxy for the trading price of the notes issued OTC.</p>
<p>9. The proposed minimum listing or “seasoning” period, for a Foreign Note with an initial term to maturity of five years, would be three months, which would, even with robust trading, yield only limited informational value relevant to the investment goals of a Canadian purchaser, where other information on the Foreign Notes is not necessarily available. The limited length of this “seasoning” period raises the possibility that issuers use the foreign-listed structured notes as an end-run around the Canadian prospectus rules – and in this regard, we note that the proposed length of the seasoning period is shorter than the restricted period applicable to Canadian reporting issuers with a full disclosure record and strict continuous disclosure obligations who privately place securities in Canada. (Davies)</p> <p>Believe that cross-trading Foreign-Listed Structured Products in such a short period following their issuance creates the</p>	<p>This condition was not intended as a “seasoning period” in the traditional sense, since the Foreign-Listed Structured Products will be publicly traded. Its purpose was to put a mechanism in place to mitigate the perceived risk that foreign issuers could, as the commenter notes, do an “end-run” around the Canadian prospectus rules. The basis of this approach was simply to ensure that these products are demonstrably publicly listed and traded securities in the foreign jurisdiction before we post them for trading. We also note that Canadian investors currently may trade foreign listed securities immediately upon their listings, including US listed securities, without waiting for any period of time.</p> <p>Since these types of securities are often used as risk management tools, their utility to investors may be reduced as time passes; any delay following their listing in the foreign jurisdiction will impact their value as a hedging tool. Further, the public trading (in the foreign jurisdiction and in Canada) allows investors to see the combined interest and have a better reference than a single price offered by their financial institution. It also allows them to easily understand the price of exiting a position.</p> <p>NEO will ensure that OSC staff are provided with ongoing statistics that support the foundational proposition: that these are foreign listed and traded products, consistent</p>

<p>potential for indirect offerings into the Canadian marketplace without compliance with the requirements applicable to Canadian public offerings of securities and the investor protections that come along with those requirements. (Banks)</p>	<p>with the intentions behind NI 21-101. Should any foreign issuer seek to create notes specifically aimed at the Canadian markets, they will be required to apply for listing.</p>
<p>10. Issuers of Foreign Notes are unlikely to be Canadian or Canadian reporting issuers. Accordingly, investors may have difficulty enforcing their contractual rights against them under the Foreign Notes. This contrasts with structured notes issued under a Canadian prospectus under which a foreign issuer would:</p> <ul style="list-style-type: none"> <li>• have primary liability on the initial offering prospectus</li> <li>• be required to file a submission to jurisdiction and appoint an agent of service for process in Canada</li> <li>• be subject to the filing requirements applicable to a reporting issuer in Canada</li> <li>• be subject to liability under secondary market disclosure provisions of Canadian securities laws. (Davies)</li> </ul>	<p>See response to #3.</p> <p>The trading of foreign exchange-traded securities on a Canadian marketplace has previously been approved, but has not been put into effect, so although we do not anticipate in the current global environment that the act of posting securities on a marketplace in a jurisdiction other than the listing market jurisdiction would change an investor’s rights, it is impossible to know with certainty how it would be viewed by a court or regulator. We do have the example of European exchanges posting North American securities without listing them and have found no evidence of a negative impact on those investors. We also believe that this is an issue that is appropriately covered by risk disclosure for which, in this case, we propose to go beyond the basic disclosure required by section 5.9 of NI 21-101.</p> <p>Again, Canadian investors are not purchasing under the IPO, so there is no primary liability issue. As foreign issuers are not offering into Canada, the filing/appointment of service issues and the secondary market liability issues are also not applicable (they are similarly not applicable when Canadian investors purchase foreign securities through their dealers outside of Canada).</p>
<p>11. As a reporting issuer, a foreign issuer of structured notes would have significant continuous disclosure requirements at law whereas an issuer of Foreign Notes may be under no obligation to continue to provide Canadian investors any continuing disclosure about the issuer or the Foreign Notes at all. (Davies)</p>	<p>See response to #4. The foreign issuers will not be providing Canadian investors directly with disclosure; however, NEO will have processes to ensure that all such disclosure and corporate actions flow through to the investor’s intermediary.</p>
<p>12. Canada enjoys a robust and competitive market for structured notes in which the Canadian banks constantly innovate and compete for “shelf space” on the basis of pricing and product innovation. The banks have a significant reputational stake in this market which they protect through voluntary rigorous internal compliance and training programs and a concern for the overall customer relationship that transcends any one transaction. To offer a competitive advantage for new entrants not subject to similar constraints and</p>	<p>We feel that more competition in general would be beneficial to Canadian investors, and that more transparency would enhance investors’ ability to compare similar products, again promoting more competition.</p> <p>We understand that the compliance and training programs described by the commenters provide investment advisors with a range of alternatives, to ensure they are meeting best execution requirements and providing advice in their clients’ best interests. It should be noted that the Proposal would also result in the availability of a broader range of product alternatives for independent dealers.</p>

<p>discipline in order to facilitate the offering of a less regulated product that does not offer any material advantage to Canadian investors or the market seems ill-advised. (Davies)</p> <p>Disagree with the rationale provided with regards to the Proposal. Canadians already have access to a variety of high quality structured products which are offered by several issuers. These issuers are constantly competing to offer better economic terms, strategies and features to Canadian investors. (Banks)</p>	
<p>13. With respect to the dynamic investment argument, structured notes are generally designed for the Canadian marketplace as buy-and-hold investments. While good liquidity is generally available in most Canadian structured product notes, intra-day trading is not a material consideration for investors. Further, since the Banks represent some of the largest Canadian market participants, we are committed to maintaining a liquid and efficient daily secondary market for our investors. We also share the concern that bid spreads will widen when the listing exchange is closed for the day or the liquidity provider is not active, as mentioned in the NEO's notice. We believe that no compelling argument is made by NEO with respect to the fact that Foreign-Listed Structured Products would provide better pricing transparency. On exchange liquidity in most of these ETNs is provided by the ETN issuer, and no other potential liquidity provider is likely to be motivated to increase the depth of this market. (Banks)</p>	<p>One of the benefits of the Proposal is that publicly-traded securities in a continuous auction market by their nature have better price transparency than bilateral offerings by financial institutions. Another benefit is the ability to sell without penalty at any time during the day at a known price, which we believe would be of value to investors. The fact that there are robust markets in the foreign jurisdictions for these products provides a clear indication of the viability and the potential price advantage for Canadian investors.</p>
<p>14. Foreign-Listed Structured Products have the potential to be highly complex financial products offered by issuers that may not be as committed to Canada or as creditworthy as the Banks...the Banks have tailored the product offerings to the needs of Canadian investors, Canada being on the conservative end of the spectrum when it comes to structured product notes. Therefore, the Banks have resisted added complexity to safeguard the reputation and strength of our industry. Due notably to their limited presence and activities in Canada and the fact that these are not listed securities in</p>	<p>As per our submission, we will apply the same standards for creditworthiness as those for our listed structured product issuers. These standards have been approved by Canadian regulators. Since these are securities that are publicly traded in the foreign jurisdictions, the commitment of the issuers to Canada is not relevant. It is important to reinforce that it is the issuers' commitment to the products, as demonstrated for a number of years in the applicable foreign jurisdictions, which is key.</p> <p>We plan to begin with relatively simple products to ensure they are well understood by investors and their dealers. NEO, as a recognized exchange with public interest obligations and oversight carried out by the OSC and the exempting regulators, will ensure the securities posted</p>

Canada and that European issuers are not reporting issuers in Canada, European issuers are not bound or required to comply with local standards.

Additionally, we are concerned that if the Proposal fails and there is insufficient interest in the Canadian market, foreign issuers will have no incentive whatsoever to continue supporting this business for existing investors. The Banks, however, have a variety of interests that motivate them to provide good service to Canadian investors since we have meaningful economic and reputational stakes in Canada.

...

Secondary to the significant concerns regarding investor protection, we believe that the Proposal may create regulatory arbitrage for the industry in Canada. As stated above, NEO's notice provides that it will only consider for cross trading notes that have been listed for a duration that is the lesser of three months and 10% of their term. By making Foreign-Listed Structured Products available so early in their lifetime, we are concerned that foreign issuers may indirectly gain access to Canadian capital in a similar fashion to a primary issuance while avoiding the regulatory burden and liability of doing so...Meanwhile, the Banks have expensive Canadian regulation to observe, which includes filing a prospectus in all provinces, complying with a lengthy and costly pre-clearance review process for any novel feature in new products and paying regulatory fees across Canada. Under the Proposal, Foreign issuers would also have more flexibility to introduce new and complex products without the need to comply with the requirements and guidelines set forth in CSA Staff Notice 44-304 - *Linked Notes Distributed Under Shelf Prospectus System* and CSA Staff Notice 44-305 - *Structured Notes Distributed Under the Shelf Prospectus System*.

The net effect of the above will be significant disruption to a market that has developed cautiously to meet and protect the needs of Canadians. Current market participants have invested significantly to

meet the requirements as set out initially and as they evolve.

As noted above, these products exist and trade in markets in Europe. There is no reason to believe that the issuers will suddenly exit the business in their home jurisdictions.

Please see above for our responses regarding the issue of indirect access. We believe that the Banks have ample tools at their disposal for remaining competitive, given their well-established Canadian brokerage businesses.

Also, we note that similar arguments were not made when other Canadian marketplaces proposed to cross-trade US listed securities, which would have allowed US financial firms to be traded in Canada without those issuers having to meet Canadian requirements.

We agree that it is possible that the Proposal could lead to a significant disruption to the market but, in our view, if it were to occur, it would be a positive one. The net effect will be more choice and more transparency in relation to these products.

<p>establish note issuance programs within the regulatory framework to ensure Canadians have suitable investment solutions available to them with all the necessary information to make informed investment decisions.” (Banks)</p>	
<p>15. We also believe that the implementation of the Proposal could generate significant operational challenges for the dealers and advisors. Amongst such challenges lies the necessity to respect suitability obligations and “Know Your Product” guidelines, which could be hard to implement and enforce with Foreign-Listed Structured Products. (Banks)</p>	<p>As per the earlier comments in which the complexity of these products is noted, we agree and reinforce that beyond the transparency of trading information NEO will ensure a broad range of information will be readily available on or through our website. This should assist the dealers and advisors who currently are responsible for KYC and suitability for the products and who will remain responsible in the future.</p>
<p>16. For the above reasons, we urge the Ontario Securities Commission and the Exchange to ensure that any order permitting the Exchange to trade in Foreign Notes be accompanied by a disclosure regime and restrictions on Foreign Notes that are eligible for such trading and other investor protections akin to those available to investors for structured notes under current Canadian prospectus rules, including CSA Staff Notice 44-304 – <i>Linked Notes Distributed under Shelf Prospectus System</i>, CSA Staff Notice 44-305 and the novelty pre-clearance regime and ensure that a robust consultation and comment process is followed prior to the implementation of any such order. (Davies)</p> <p>In our view, the potential consequences of offering complex financial products such as Foreign-Listed Structured Products to retail Canadian investors should be carefully considered. When it comes to foreign financial products like Exchange Traded-Funds or ETNs, the OSC rightfully states in <i>Staff Notice 81-715 Cross-Listing by Foreign Exchange-Traded Funds</i> that a balance needs to be found between investor access to foreign products and investor protection while maintaining consistent regulation across domestic and foreign products. To that effect, we cannot support the Proposal, as we feel the added complexity created for Canadian investors outweighs any potential benefits claimed by introducing Foreign-Listed Structured Products into an already deep and</p>	<p>The commenter would be aware that a “disclosure regime” would take years to put into place. More importantly, re-creating the full range of provisions would conflict with NI 21-101’s foreign exchange-traded security concept. These issuers are regulated in their home jurisdiction and the Proposal includes a vetting process for the jurisdiction, listing exchange and securities to be cross-traded. As noted in a number of our above responses, the Foreign-Listed Structured Products will be traded in secondary markets and the trading in Canada will be transparent, making many of the concerns inapplicable as the provisions being cited relate to primary issuances and bilateral OTC trading.</p> <p>Similarly, NI 21-101 already acknowledges that all issuers do not have to be treated the same, and that marketplaces may trade securities that are listed and traded in foreign jurisdictions with comparable regulation. The commenters have argued on the one hand that these are complex products that Canadian intermediaries are in the best position to explain to clients and on the other that the simple fact of introducing competitive products from non-Canadian issuers would create harmful complexity. NEO is interested in posting products that will have value to a wide range of investors and, as a result, do not plan to select overly complex products. Moreover, OSC staff will be in a position to vet the types of products and their complexity.</p> <p>On the assumption that the products offered under the Proposal will be similar to those currently offered to Canadian investors, we would assume that the commenters would have no objection to them from a</p>

<p>competitive marketplace. The Canadian regulatory environment and structured products industry currently enjoys an enviable reputation due to the high-quality of the Canadian Banks, their profound commitment to education and client support, and the variety and quality of the products they make available to investors.</p> <p>We do support new issuers wishing to list their products on the NEO, or any other exchange, in Canada. However, any new initiatives should be thoroughly vetted and considered with the best interests and protection of Canadian investors in mind. We believe that to properly do so, any issuer should have to comply with Canadian securities regulations. (Banks)</p>	<p>complexity/suitability perspective. Please see also the response to #13.</p>
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