

CHAPTER 1

INTERPRETATION AND DEFINITIONS

**CHAPTER 1 - SCOPE OF CHAPTER
INTERPRETATION AND DEFINITIONS**

This **Chapter** sets out how the *Listees' Listing Standards are to be interpreted, and that *listees should be complying with the spirit, intention and purpose of the *Listees' Listing Standards.

The definitions contained in this **Chapter** have been used throughout the *Listees' Listing Standards.

Please Note:

The terminology used in the Listing Standards and Appendices to the Listing Standards reflects the requirements of the *Corporations Act 2001* (“**Act**”) as amended by the *Financial Services Reform Act 2001* (“**FSRA**”).

Until the end of the FSRA transition period on 10 March 2004, the terms set out in Schedule 1 include a reference to those terms as defined in the Act as in force immediately before 11 March 2002 (“**Original Act**”). From 11 March 2004, Schedule 1 will cease to have force and effect.

Chapter 1

Interpretations and Definitions.

INTERPRETATION.

PRINCIPLES ON WHICH THE LISTEES' LISTING STANDARDS ARE BASED.

1.1. The *Listees' Listing Standards are based on the principles set out in the Introduction.

LISTEE MUST COMPLY WITH SPIRIT, INTENTION AND PURPOSE OF RULES.

1.2. A *listee must comply with the *Listees' Listing Standards as interpreted:

- (a) in accordance with their spirit, intention and purpose;
- (b) by looking beyond form to substance; and
- (c) in a way that best promotes the principles on which the *Listees' Listing Standards are based.

Note: The principles on which the *Listees' Listing Standards are based embody their intention and purpose. See the Introduction.

GOVERNING LAW.

1.3. The listing agreement is governed by the laws of Victoria.

1.4. *APX and all *listees irrevocably submit to the non-exclusive jurisdiction of the courts of Victoria and to the courts of appeal from the courts of Victoria.

CERTIFICATION.

1.5. In *Listees' Listing Standards, references to a document being certified means certified to be a true copy or extract (as the case may be) by a *director, the secretary or other authorised officer of the *listee.

EXPRESSIONS USED IN THE LISTEES' LISTING STANDARDS

1.6. Unless the context requires otherwise, words importing the singular number include the plural and vice versa and words importing the masculine gender include the feminine and neuter genders and vice versa. A reference to a person includes a reference to a natural person and a legal person.

EXPRESSIONS USED IN THE CORPORATIONS ACT.

1.6.1. Expressions that are not specifically defined in the *Listees' Listing Standards, but are given a particular meaning in the *Act, have the same meaning in the *Listee Listing Standards.

1.6.2. A reference to a law, *APX's constituent documents, *APX's Business Rules, *APX's *Listees' Listing Standards, is a reference to the provision as:

- (a) amended;
- (b) re-enacted;
- (c) modified by administrative act; or

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Example: An *ASIC exemption or modification modifies the application of the *Act.

- (d) affected by a subordinate instrument.

Example: The Corporations Regulations affect the *Act.

LISTEES' LISTING STANDARDS DEFINITIONS.

- 1.7.** Where definitions in the *Listees' Listing Standards are wider than, or the obligations and requirements imposed more onerous than, the *Act, the provisions of the *Listees' Listing Standards shall prevail provided that where any provision of the *Listees Listing Standards is in conflict with the provisions of the *Act, the *Act shall prevail.

CONDUCT.

- 1.8.** An act or omission by a *listee includes an act or omission caused directly or indirectly by the *listee.

Example: A *listee that causes a subsidiary to take an action is taking the action indirectly.

CALCULATION OF TIME.

- 1.9.1.** When a Rule requires something to be done by a day that is not a *business day, the thing must be done by the preceding *business day.
- 1.9.2.** References to time are to local Melbourne time, unless another time is specified.

NOTICE TO A LISTEE BY APX.

- 1.10.1.** A document is to be treated as being given to a *listee if it is left at, or is sent by post or fax to, the address or fax number:
- (a) in the *listee's application for admission; or
 - (b) given to *APX by the *listee or used in correspondence with *APX by the *listee.

This **Rule** does not prevent a document being given to a *listee in any other way permitted by law.

Example: Laws regarding service of documents.

- 1.10.2.** The time that the document is to be treated as being given to a *listee is as follows:
- (a) if it is delivered, the time of delivery;
 - (b) if it is posted, on the second *business day after posting; or
 - (c) if it is faxed, when fax is received. A successful fax transmission report is sufficient proof of the time of receipt.

PROCEDURAL DEFECTS.

- 1.11.** A procedural defect does not invalidate a decision of *APX. If the defect may result in substantial injustice, a *listee may ask *APX to review its decision.

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ENFORCED BY THE APX.

1.12. These *Listees Listing Standards shall be interpreted, administered and enforced by *APX. The decisions of *APX shall be conclusive and binding on a *listee.

HISTORY, NOTES ETC WHICH ARE NOT PART OF THE LISTEES' LISTING STANDARDS.

1.13. The following are not part of the *Listees' Listing Standards:

- (a) the Tables of Contents;
- (b) the Scope of the Chapter;
- (c) the Explanatory Notes;
- (d) the Introduction (except the principles on which the *Listees' Listing Standards are based);
- (e) the History, Notes, Examples and Cross References, set out beneath particular Rules; and
- (f) the Index.

HOW A LISTEE ADVISES APX.

1.14. If a Rule requires a *listee to advise *APX something, the *listee must advise *APX in writing.

FINANCIAL STATEMENTS.

1.15. If a Rule requires a *listee to give *APX financial statements, the following Rules apply:

- (a) if the *listee controls an entity within the meaning of section 50AA of the * Act or is the holding company of an entity, required by law, regulation, rule or accounting standard or if *APX requires, the statements must be consolidated statements;

Note: As at 1 July 2003, section 50AA of the * Act says that an entity controls a second entity if the first entity has the capacity to determine the outcome of decisions about the second entity's financial and operating policies, and in determining whether the prior entity has this capacity, the practical influence that it can exert and any practice or pattern of behaviour affecting the second entity's financial or operating policies is to be taken into account. A holding company has another body corporate as a subsidiary. See sections 9 and 46 of the * Act.

Example: If the *listee is a parent *listee and the Rule requires a balance sheet, a consolidated balance sheet is required.

- (b) the statements must be prepared to Australian Accounting Standards;
- (c) if the Rule requires audited financial statements, the audit must be conducted in accordance with Australian Accounting Standards by an * auditor; and
- (d) if the Rule requires financial statements to be reviewed, the review must be conducted in accordance with Australian Auditing Standards. Unless the Rule states an independent accountant may conduct the review, it must be conducted by an * auditor.

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AMENDMENTS.

1.16. An amendment to these *Listees Listing Standards is of no effect until APX approves the amendment in writing.

REGISTERED SCHEME.

1.17. In the case of a *listee that is a managed investment scheme, obligations imposed by these Rules on the *listee or officers of the *listee must be discharged by the responsible entity of the scheme or the officers of the responsible entity.

DEFINITIONS.

1.18. The following expressions have the meaning set out below:

EXPRESSIONS

MEANINGS

Acquire

to acquire or agree to acquire directly or through another person by any means, including the following:

- (a) granting or exercising an option.
- (b) enforcing collateral and taking an asset.
- (c) increasing an economic interest.
- (d) acquiring part of an asset.

Acquisition

to *acquire.

Act

the *Corporations Act 2001*, including the *Corporations Regulations 2001*.

announcement

any announcement or other disclosure of information made by the *listee in accordance with **Rules 8.3.1 to 8.3.2**.

annual report

includes financial documents.

Applicant

an entity seeking permission to be admitted to the official list.

APX

Australia Pacific Exchange Limited (ABN 19 080 399 220).

APX Announcements Office

the office designated by *APX as its *APX Announcements Office.

ASIC

Australian Securities and Investments Commission.

asset-backed securities

*fixed interest securities backed by financial assets which, at the time of the relevant issue, are evidenced by agreements and intended to produce funds to be applied towards interest payments due on the *securities and repayment of principal on maturity, except those *fixed interest securities which are directly secured, in whole or in part, on real property or other tangible assets.

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auditor	has the same meaning as “registered company auditor” in section 9 of the * Act.
Australian Accounting Standards	the accounting standards as defined in section 9 of the * Act.
aware	a *listee becomes aware of information if a *director or executive officer of the *listee has, or ought reasonably to have, come into possession of the information in the course of the performance of their duties as a director or executive officer of that listee.
bank	(a) a bank as defined by Section 5 of the Banking Act 1959; or (b) a bank constituted by or under a law of a State or Territory.
board	in respect of a *listee, the board of *directors of the *listee.
bonus issue	a *pro rata issue of *securities to holders of *ordinary securities for which no consideration is payable by them.
bonus securities	*securities issued under a *pro rata issue of *securities to holders of *ordinary securities for which no consideration is payable by them.
business day	Monday to Friday inclusive, except New Year's Day, Good Friday, Easter Monday, Christmas Day, Boxing Day, and any other day that *APX declares is not a business day.
Business Rules	the business rules of *APX.
circular	Any document issued to holders of *listed securities including notices of meetings but excluding *listing particulars, annual reports and accounts, interim reports, proxy cards and dividends and/or distributions or interest vouchers.
Class 1 acquisition	an acquisition as defined in Rule 10.2.2.(b) .
class	*class of securities.
class of securities	*securities are in the same class only if the same rights and obligations attach to them. Differences arising from the requirements of the *Listees' Listing Standards relating to *restricted securities are to be ignored.
close period	any period when a *director is prohibited from dealing, including: (a) the period of two months immediately preceding the preliminary announcement of the *listee's annual results or, if shorter, the period from the relevant financial year end up to and including the time of the announcement; and (b) if the *listee reports on a half-yearly basis, the period of two months immediately preceding the publication of the half-yearly

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	report in accordance with Rule 9.19 of the *Listees' Listing Standards or, if shorter, the period from the relevant financial period end up to and including the time of such publication; or
	(c) if the *listee reports on a quarterly basis, the period of one month immediately preceding the announcement of the quarterly results or, if shorter, the period from the relevant financial period end up to and including the time of the announcement (save that for the final quarter (a) applies).
Conflict Management Plan	the *Conflict Management Plan, to which *APX is bound, that governs the handling of conflicts between the commercial interests of *APX and the need for *APX to ensure that the financial market it operates is fair, orderly and transparent.
constitution	(a) in the case of a company the constitution; and (b) in the case of a managed investment scheme, the constitution.
conversion	converting from one * security to another.
convertible	includes exercisable.
convertible fixed interest securities	an unsecured note or debenture that is an * equity security because it is a * convertible security.
convertible securities	* securities which are * convertible by the holder , or automatically by their terms of issue, into * equity securities. Note: * convertible securities include options.
corporate action	an action undertaken by a *listee for the purpose of giving to holders of a * class of securities of the *listee an entitlement to dividends and/or distributions, interest, new * securities, rights to priority of applications for issues of * securities, or any other entitlement.
dealing	includes any sale or purchase of, or agreement to sell or purchase, any * securities of the *listee and the grant, acceptance, acquisition, disposal, exercise or discharge of any option or other right or obligation, present or future, conditional or unconditional, to acquire or dispose of * securities, or any interest in * securities, of the *listee and “deal” shall be construed accordingly.
director	a director (as defined under section 9 of the * Act) of the *listee.
directors' service contract	in respect of a *listee a service contract with a * director of the *listee with a notice or contract period of one year or more or with provisions for predetermining compensation on termination of an amount which equals or exceeds one year's salary and benefits in kind.
dispatch date	the date set in accordance with the *Listees' Listing Standards or the date set by *APX by which the * securities are issued and certificates sent to holders.

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Note: the * Listees' Listing Standards set out the last date that a * listee can set as a * dispatch date. If the * listee does not set an earlier date, the last date becomes the * dispatch date.
cross reference: **Appendix 6-3** and **Appendix 6-4**.

disposal

to * dispose.

dispose

to dispose or agree to dispose directly or through another person by any means, including the following:

- granting or exercising an option;
- using an asset as collateral;
- decreasing an economic interest; and
- disposing of part of an asset.

Example: A * listee holds all the * securities in Company A, which holds all the * securities in company B. Company B holds * restricted securities. If company A sells 51% of the * securities in company B the * listee has disposed of the * restricted securities.

dividend or distribution plan

any plan which gives holders of * securities the opportunity to accept * securities in place of dividend, distribution or interest payments (either partly or wholly).

employee incentive scheme

in respect of a * listee;

- (a) a scheme for the issue or * acquisition of * equity securities in the * listee to be held by, or for the benefit of, participating employees or non-executive * directors of the * listee or a * related entity; or
- (b) a scheme which, in * APX's opinion, is an employee incentive scheme.

entity

includes an undertaking to which interests in a managed investment scheme registered under the * Act relates.

equity share capital

in relation to a company, its issued share capital excluding any part of that capital which, neither as respects dividends nor as respects capital, carries any right to participate beyond a specified amount in a distribution.

equity security

means:

- (a) a share (other than a share which is a * fixed interest security) in a body (other than a body which is * property entity);
- (b) an interest (other than an interest which is a * fixed interest security) in a managed investment scheme (other than a managed investment scheme which is a * property entity);
- (c) a legal or equitable right or interest in a * security covered by

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	paragraph (a) or (b);
	(d) an option to acquire, by way of issue, a *security covered by paragraph (a) or (b);
	(e) a financial product which is *convertible into a *security covered by paragraph (a) or (b);
	(f) any *security that *APX decides to classify as an *equity security;
	but does not include a *security which *APX classifies as a *property security or *fixed interest security.
exchange	means a financial market operated in Australia by the holder of an Australian market licence.
financial documents	the documents that the responsible entity of a managed investment scheme is required to lodge with the *ASIC under the *Act. However, it does not include a concise report.
fixed interest issuance programs	issues of *fixed interest securities where only part of the maximum principal amount or aggregate number of *securities under the issue is issued initially and a further tranche or tranches may be issued subsequently.
fixed interest listee	a *listee which issues *fixed interest securities.
fixed interest security	means: (a) a redeemable preference share in a body which has a fixed and certain date for redemption; (b) a debenture of a body; (c) an interest in a *managed investment scheme which only invests in mortgages, cash and/or *fixed interest securities covered by paragraphs (a) or (b); or (d) any *securities which are determined by *APX to be *fixed interest securities, but does not include financial products determined by *APX to be *property securities or *equity securities.
fully paid securities	*securities which have been fully paid.
group	an entity and its controlled entities.
independent external person	in relation to *APX, means a person who: (a) is eligible to be an *independent director of *APX; and (b) is not, and has not within the last 5 years been, a director or

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	secretary of *APX.
Listing Application Department	the department designated by *APX as its *Listing Application Department.
listed fixed interest securities	*fixed interest securities admitted to *quotation.
listed securities	*securities admitted to *quotation.
Listee	an entity that has been admitted to the *official list
listee's equity securities	*equity securities of a *listee.
Listees' Listing Standards	this document as amended from time to time.
listing particulars	as defined in Rule 6.1 .
main class	the *class of securities being so designated by *APX.
major security holder	a person who: (a) is interested in ten per cent or more of the class of *security in respect of which the application for admission to *quotation is being made (calculated on the assumption that any outstanding options which have been granted or other *convertible securities in issue have been exercised or converted but before taking into account any *securities issued at the same time as listing); or (b) has the right, by virtue of any agreement, to nominate a person to the *board of *directors of the *listee.
market capitalisation	the number of main *class securities on issue multiplied by the price decided by *APX.
market price	the most recent sale price displayed by the *trading system.
official list	official list of entities that *APX has admitted and not removed.
ordinary securities	ordinary shares, ordinary *units or lots (if a *listee does not have ordinary shares or ordinary *units, the *class of securities designated by *APX).
parent undertaking	a holding company.
partly paid securities	*securities which are not *fully paid securities.
preference securities	*securities which are given preference to *ordinary securities.
prohibited period	means: (a) any *close period;

* See Chapter 1 for defined terms.

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- (b) any period when there exists any matter which constitutes *unpublished price sensitive information in relation to the *listee's *securities (whether or not the *director has knowledge of such matter) and the proposed dealing would (if permitted) take place after the time when it has become reasonably probable that an announcement will be required in relation to that matter; or
- (c) any period when the person responsible for the clearance otherwise has reason to believe that the proposed dealing is in breach of the **Listees' Restriction on Dealing Code**.

property entity

a body or a managed investment scheme which:

- (a) carries on the business of owning or investing in real property; and
- (b) otherwise, invests only in other entities covered by paragraph (a).

promoter

in relation to an entity:

- (a) a person (or an associate of that person) who provides a service to the entity (or to a *related party of the entity) in relation to either of the following or who, in the opinion of *APX, is involved in or has had any influence in either of the following:
 - The entity's listing application; or
 - The entity's initial public offering;
- (b) unless *APX decides otherwise, a *substantial security holder (or associated of a *substantial security holder) who is entitled to at least 10% of the voting *securities of the entity.

property security

means:

- (a) a share (other than a share which is a *fixed interest security) in a body which is *property entity;
- (b) an interest (other than an interest which is a *fixed interest security) in a managed investment scheme which is a *property entity;
- (c) a legal or equitable right or interest in a *security covered by paragraph (a), (b) or (c);
- (d) an option to acquire, by way of issue, a *security covered by paragraph (a), (b) or (c);
- (e) a financial product which is *convertible into a *security covered by paragraph (a), (b) or (c); and
- (f) any *security that *APX decides to classify as a *property security;

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	but does not include a *security which *APX classifies as an *equity security or a *fixed interest security.
property listee	a *property entity that has been admitted to the *official list.
pro rata issue	an issue which has been offered to all holders of *securities in a *class on a pro rata basis.
published valuation	is the *valuation, whether produced independently or by the *directors, referred to in the *listee's latest published annual report and accounts or the most recent *listing particulars or *circular published since such annual report and accounts.
quotation	in relation to *securities means that, during the course of trading on the *exchange, information concerning the prices (if any) at which persons have offered to buy or sell those *securities is from time to time recorded on the trading system.
Quotation Appeals Committee	the committee designated by *APX to hear appeals against decisions by *APX
Quotation Committee	the committee designated by *APX to exercise on its behalf any power or discretion conferred on *APX by these Rules .
quoted	in relation to *securities means admitted to *quotation.
quoted securities	*securities admitted to *quotation.
record date	in respect the *securities of a *listee 5.00 pm on the date the *listee specifies for lodging transfers of those *securities for the purpose of identifying the persons who are entitled to the benefit of a *corporate action.
related party	(a) in relation to a body corporate, has the meaning in section 228 of the *Act; (b) in relation to a natural person: (i) his or her spouse, de facto spouse, parent, son, or daughter, or a spouse or de facto spouse of that person; (ii) an entity over which one or more persons referred to in paragraph (i) has control; (iii) an entity that he or she controls, or its parent entity or sibling entity; (iv) a person who acts, or proposes to act, in concert with anyone referred to above; or (v) a person who was a related party in the previous 6 months, or who would be a related party in the future, under the tests in section 228 of the *Act (applied with

* See Chapter 1 for defined terms.

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any necessary adaptation); and

- (c) in relation to a registered managed investment scheme, a related party under section 228 of the * Act, as modified by section 601LA of the * Act.

relevant employee means any employee of the * listee or * director or employee of a * subsidiary undertaking or * parent undertaking of the * listee who, because of his office or employment in the * listee or * subsidiary undertaking or * parent undertaking, is likely to be in possession of * unpublished price-sensitive information in relation to the * listee.

registered office the registered office of the * listee (in the case of a trust, the registered office of the * management company or * responsible entity of the * managed investment scheme).

responsible entity has the meaning given in section 9 of the * Act.

restricted securities (a) * securities issued in the circumstances set out in **Appendix 17-2**; and

- (b) * securities that, in * APX's opinion, should be treated as restricted securities.

Example: * securities issued to a person whose relationship with a vendor, * related party, * promoter, or professional or consultant to the * listee is such that, in * APX's opinion, the * securities should be restricted.

restriction agreement an agreement in the form set out in **Appendix 17-1**

rule the rules contained in * APX * Listees' Listing Standards or Business Rules.

security has the meaning given to the expression by section 92(1) of the * Act and includes an * equity security, a * property security or a * fixed interest security.

security holder holder of * securities in a * listee.

sponsor a * sponsor is one entered on the APX's register of * sponsors under **Business Rule 9.4.1**.

Sponsor Regulation Department the department designated by * APX as the * Sponsor Regulation Department.

subsidiary undertaking (a) in relation to a body corporate, a subsidiary of the body corporate.
(b) in relation to a managed investment scheme, a subsidiary of the managed investment scheme.

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- substantial holder** (a) in relation to a company and a trust which is a registered managed investment scheme, a substantial holder under section 671B of the * Act.
- Note: At 1 July 2003, section 671B of the * Act says a * substantial holder means a person who has a substantial holding, that is the person and the person's associates have a relevant interest in not less than 5% of the total votes attached to the voting shares in the company or the voting interests in the scheme.
- Sections 608 and 609 of the * Act explain when a person has a relevant interest in shares or interests in a scheme.
- (b) in relation to a trust which is not a registered managed investment scheme, a person who would be a substantial holder under section 671B of the * Act if references to interests in the scheme in the * Act were references to * units.
- takeover** a takeover bid.
- tap issues** Issues of * fixed interest securities where the subscription thereof may continue or further tranches thereof may be issued after a * listee has been admitted to the * official list.
- trading halt** an interruption to trading at the request of a * listee that is not a suspension of * quotation.
- trading system** the system designated by * APX as the * trading system.
- underlying securities** (a) in relation to an option over unissued * securities, * securities in the same * class as those which would be issued if the option is exercised;
- (b) in relation to * convertible fixed interest security, * securities in the same * class as those which will be issued if the * convertible fixed interest security is converted.
- unpublished price-sensitive information** means information which:
- (a) relates to particular * securities or to a particular * listee or to particular * listees of * securities and not to * securities generally or * listees of * securities generally (and, for these purposes, information shall be treated as relating to a * listee of * securities which is a * listee; not only where the information it is about the * listee but also where it may affect the * listee's business prospects);
- (b) is specific or precise;
- (c) has not been made generally available within the meaning of section 676 of the * Act; and
- (d) if it were made public would be likely to have a significant effect in the price or value of any * securities and, without prejudice to the generality of the above, it should be considered whether any unpublished information regarding transactions

* See Chapter 1 for defined terms.

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required to be notified to *APX's Announcements Office in accordance with **Chapter 10** or **Chapter 11** of the *Listees' Listing Standards and unpublished information of the kind referred to in the Rules of the *Listees' Listing Standards set out below is price-sensitive:

- **Rule 8.1.1** general obligation of disclosure;
- **Rule 8.8(d)** alterations to capital structure;
- **Rule 8.17** notification of substantial interests in shares;
- **Rules 14.3, 14.5, 14.6, and 14.7** purchase of own securities; and
- **Rule 15.4.1** notification of directors' interests.

**voting exclusion
statement**

a statement referred to in **Rule 16.10.1**.

SCHEDULE 1

The terminology used in the Business Rules reflects the requirements of the *Corporations Act 2001* ("**Act**") as amended by the *Financial Services Reform Act 2001* ("**FSRA**"). However, until the end of the FSRA transition period, the following terms include a reference to the terms as defined in the Act as in force immediately before 11 March 2002 ("**Original Act**").

1. The term "**Australian financial services licence**" includes a reference to the term "dealers licence" as that term is defined in the Original Act.
2. The terms "**authorised representative**" and "***representative**" respectively include a reference to the terms:
 - (1) "securities representative" as that term is defined in the Original Act; and
 - (2) "proper authority" as that term is defined in the Original Act.
3. The term "**financial services business**" includes a reference to the term "securities business" as that term is defined in the Original Act.
4. The term "**financial services licensee**" includes a reference to the term,:
 - (1) "securities dealer" as that term is defined in the Original Act.
 - (2) "securities licensee as that term is defined in the Original Act.