SECURITIES LENDING: AGENT DISCLOSURE CODE OF GUIDANCE

SEPTEMBER 2010

1. SCOPE AND APPLICATION

This Code of Guidance, which has been drawn up under the auspices of the Securities Lending and Repo Committee, a committee of market practitioners, is intended as a best practice guide to assist UK-regulated Lending Agents in providing UK-regulated Lenders (beneficial owner clients) with key information that they should be made aware of, both prior to appointing a Lending Agent under an agency securities lending agreement, and on a periodic basis thereafter.

The Code should be read in conjunction with the Securities Borrowing and Lending Code of Guidance which provides a summary of the basic procedures which UK-based participants in securities/lending borrowing observe as a matter of good practice.

Although designed to cover all the main topics, the Code cannot be expected to cover all possible scenarios and it is strongly encouraged that Lenders take independent advice if they are unsure of the ramifications of entering into a securities lending programme. The Code is not intended to constitute investment, legal or tax advice on the part of the Lending Agent. This should be undertaken by the Lender independently.

Lending Agents should give consideration as to how they should evidence discussions held with regard to this Code.

2. REGULATORY FRAMEWORK

A detailed review of the regulatory framework is beyond the scope of this Code, however it may be noted that any person who conducts securities lending or borrowing business in the United Kingdom would generally be carrying on a regulated activity in terms of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 and therefore would have to be authorised and supervised under that Act unless an exclusion were applicable.

When assessing whether a Lender (client) is suitable for an agency lending programme, with regards to a personal recommendation, the Lending Agent should consider its responsibilities pursuant to the FSA's Conduct of Business Sourcebook (COBS), with particular reference to COBS 9.2.1 – 8.

3. LEGAL FRAMEWORK/APPROVAL TO LEND

Lending Agent recommended discussion points with Lender:

- Encourage the Lender to consider specific legal, taxation or regulatory requirements relating to their particular domicile, entity type, tax status, reporting requirements etc.
- Encourage the Lender's review of the securities lending authorisation agreement between Lending Agent and Lender ("SLAA") to ensure it meets their requirements.
- The Lender should confirm that it has the necessary powers to enter into the securities lending agreement.
- Encourage the Lender's review of the master securities lending agreement between the Lending Agent (acting as Agent) and the borrower ("MSLA") to ensure it encompasses Lender protections and generally conforms to an industry standard agreement (ie GMSLA or equivalent).
- Discuss the relationship between SLAA and MSLA and how this might impact the Lender.
- Encourage the Lender to ensure that any exceptions/changes they require and/or negotiate are referenced specifically in the SLAA.

4. RISK MITIGATION

Lending Agent recommended discussion points with Lender:

- Risks associated with securities lending including reinvestment and collateral risks.
- Risks of any "exclusive" arrangement with a single borrower.
- Encourage the Lender to assess the impact of securities lending on other investment activity, and discuss with underlying Investment Manager.
- Any indemnities offered by the Lending Agent and the scope, details and trigger thereof.

5. LENDING ACTIVITY – RESTRICTIONS/DIRECTIVE

Lending Agent recommended discussion points with Lender:

- Any limit to the percentage of assets that the Lender is allowed to lend per their legal, tax, internal policy, or otherwise, review and/or due diligence.
- Any limits to the amount lent per line of stock.
- Counterparty limitations.
- Pooled lending programme details and allocation methodology.

6. COLLATERAL

Lending Agent recommended discussion points with Lender:

- Lender acceptable securities collateral and minimum credit rating, concentration limits, margin or haircut requested.
- Segregated portfolio or pooled arrangements.
- Collateral asset type and / or currency matching with the asset being lent.
- Schedule of acceptable cash collateral investments with details, for example, of minimum credit rating, tenor, concentration limits, margin or haircut applied has been documented as appropriate.

7. ONGOING LENDING REPORTING AND REVIEWS

Lending Agent recommended discussion points with Lender:

- Reports the Lender will receive. Examples of such.
- Programme review schedule - scope and frequency.
- Lending programme performance data.

8. CORPORATE GOVERNANCE AND VOTING

Lending Agent recommended discussion points with Lender:

- The Lender's policy on voting and potential impact as a result of a securities lending programme.
- Timelines needed to recall a loaned security in order to maintain voting rights.

9. FEES

Lending Agent recommended discussion points with Lender:

- Agree level of fees and discuss the potential effects of any changes in the portfolio content, trading profile and securities lending parameters.

10. TRAINING

Lending Agent recommended discussion points with Lender:

- The Lender's training requirements
- Encourage the Lender to visit ISLA website for additional training resources

USEFUL REFERENCES

Documents that accompany this paper:
Securities Lending Introductory Guide
Checklist for Lenders
www.bankofengland.co.uk/markets/gilts/slrc.htm

Further Reading:
Securities Borrowing and Lending Code of Guidance
www.bankofengland.co.uk/markets/gilts/stockborrowing.pdf
Introduction to Securities Lending
Securities Lending: Your Questions Answered
Securities Lending and Short Selling
Securities Lending and Corporate Governance
www.isla.co.uk/dynamic.aspx?id=62
Global Master Securities Lending Agreement (GMSLA 2010)
www.isla.co.uk/uploadedFiles/Member_Area/General_Library/GMSLA%202010%20Final(1).pdf
FSA Conduct of Business Sourcebook
http://fsahandbook.info/FSA/html/handbook/COBS

Relevant websites:
Securities Lending and Repo Committee
www.bankofengland.co.uk/markets/gilts/slrc.htm
Financial Services Authority
www.fsa.gov.uk
HM Treasury
www.hm-treasury.gov.uk
The Pensions Regulator
www.thepensionsregulator.gov.uk
Association of British Insurers
www.abi.org.uk
British Bankers Association
www.bba.org.uk
ICMA European Repo Council
www.icmagroup.org/about1/international1/european.aspx
International Securities Lending Association
www.isla.co.uk
Investment Management Association
www.investmentuk.org.uk
Local Authority Pension Fund Forum
www.lapfforum.org
National Association of Pension Funds
www.napf.co.uk
Thomas Murray
www.thomasmurray.com

Glossary of relevant terms:
A full glossary of terms used in securities lending can be found in the SLRC Code of Guidance.
www.bankofengland.co.uk/markets/gilts/stockborrowing.pdf

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