

# Global PSSL for UN Pathways Progress Report

Strategic decision



Strategic decision adopted by *The Global PSSL for UN Pathways* programme and reviewed by The Global PSSL College of Advisors and ROSE Centre.



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## Transparent Public, Private, and Polycentric (3P) Collaboration in Securities Finance

*‘3P Transparency’*

### Strategic Decision

The global securities lending market operates across a \$€£ trillions finance agenda and is undergoing a profound transformation from an existing model to a more sustainable and transparent approach. The impetus for change has come from a variety of sources, including Global PSSSL principles and the strategic ‘Global PSSSL for UN Pathways’ programme. This transformation will be driven by the unlocked potential of the whole securities lending value chain, with the help of global principles, jurisdictional regulation, active supervision, innovative data solutions and industry collaboration. Consequently, we need to enhance existing governance structures through an appropriate balance between these mechanisms, multi-stakeholder arrangements and inclusion of broader matters relating to securities finance.

Securities lending is polycentric, as it includes both conflicting and overlapping interests that impact upon broader stakeholders and communities, including taxpayers and retail investors. The polycentricity of securities lending can also be explained by the interplay of public and private (commercial) interests with regard to such aspects as market liquidity, price discovery or long/short investment strategies. Many stakeholders in the value chain play multiple roles that vary with time and location, and this further underscores the polycentric nature of securities lending.

We need operational principles that will enable stakeholders with public, private and polycentric interest (3P) to collaborate transparently on common goals in securities finance (*3P Transparency*).

All stakeholders will need to identify key roles, responsibilities and interests when they strengthen existing relationships, and strive to develop new partnerships and collaborations for more transparent and sustainable securities lending. These collaborations may include cutting-edge methods for providing information on the operation of securities lending and new developments that use blockchain, and other technologies.

# Global Principles for Sustainable Securities Lending



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*3P Transparency* operationalising principles will enable stakeholders aiming at genuine and lasting improvements in securities finance to consciously identify common goals, conflicts of interests and ways of working together through collaborations and partnerships. As securities lending is part of the global sustainable finance agenda, it is insufficient to depend upon *ad hoc* arrangements that can result in misinformation, struggles for dominance, and misrepresentation of roles and goals, including greenwashing.

**These principles will provide a long-term foundation for collaborations and include guidelines for letters of intent, memoranda of understanding and apportionment of financial costs. They will identify ways of resolving disputes, including guidance on how to demonstrate accurate representations regarding ESG and sustainability matters. These principles will also provide a mechanism for recognising such collaborations and partnerships as transparent and beneficial for the stated objectives.**

Global PSSSL is the appropriate vehicle to provide these principles given its underlying impartial structure and principles that put enhanced governance, transparency and stakeholder engagement at its heart. Over the past year, we have also worked on identifying practical solutions that include an operationalisation of the European Union's Securities Financing Transactions Regulation (SFTR) to create benefits beyond regulatory supervision. Through our engagement with regulators and industry, we have also co-driven some discussions on how to overcome global jurisdictional limits in order to create a cross-border data repository for securities finance.

The task of developing *3P Transparency* will be put in the hands of our *Global PSSSL for UN Pathways* programme. This will help us align with, and further strengthen, the UN sustainable development agenda. The UN Secretary General has emphasised the need to stop the *slow* and *fake* movers alongside greenwashing.

- <sup>3P</sup> *3P Transparency* will lay practical foundations for authentic collaborations and partnerships between stakeholders who are willing to be transparent about their public, private and polycentric interests in securities finance.
- <sup>3P</sup> *3P Transparency* will encourage the efforts of serious players to build collaborations and partnerships based on solid foundations.
- <sup>3P</sup> *3P Transparency* will put enhanced governance into action to prevent greenwashing and capture by fake movers.

**Reviewed and approved for action based on the recommendation in the Annex A on 16 December 2022.  
Global PSSSL for UN Pathways.**

Reviewed by the College of Advisors and ROSE.



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## Annex A

### Recommendation for *3P Transparency*

#### Introduction

- 1.1 The global securities lending market operates across a \$€£ trillions finance agenda and is undergoing a profound transformation from an existing model to a more sustainable and transparent approach, governed by appropriate checks and balances.<sup>i</sup> This transformation should be driven by the unlocked potential of the whole securities lending value chain, voluntary self-regulation (principles), regulation, active supervision and innovative data solutions. It should also include broader considerations relating to securities finance, including repo.
- 1.2 Whereas the efforts to increase transparency in securities lending have been long-standing<sup>ii</sup>, Global PSSSL has set the international sustainability agenda in this field since 2018; initially as an independent association of free organisations<sup>iii</sup>. Following that, Global PSSSL received inputs from the whole securities lending value chain, including large banks and sovereign wealth funds. Global PSSSL, as an independent and impartial organisation and principles-based approach, has gained a much-valued *authority*<sup>iv</sup>.
- 1.3 Securities lending is polycentric as it includes both conflicting and overlapping interests that impact upon broader stakeholders i.e. it involves *externalities*. Securities lending has multiple spheres of influence that cross many borders and are likely to change over time. There are many stakeholders that benefit from and/or shape the securities lending value chain; such as pension funds, sovereign wealth funds, asset managers, banks, hedge funds, money makers, regulators and central banks. Some of these stakeholders will or may perform several functions such as a mix of lending and borrowing, or a mix of long investments and short-selling directly or indirectly<sup>v</sup>.
- 1.4 Logically, regulation is not the only solution for achieving transparency in securities lending, especially in the global context and when taking into account the increasing importance of sustainable finance (or ESG). Rather, *enhanced governance* can provide a balanced solution to increasing the transparency and sustainability of securities lending at the global level. Enhanced governance builds upon the existing web of interactions (or, governance), and relies on a balanced use of regulation, principles (Global PSSSL), voluntary guidelines, regulatory supervision, and access to data with technological innovation. Enhanced governance should lead to building



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and maintaining bridges that cross jurisdictional limits. Enhanced governance must also encourage broader stakeholder engagement.

- 1.5 Global PSSSL Principles are holistic in aligning securities lending with sustainable finance with an emphasis on governance.
- 1.6 *3P Transparency* should be developed as *operationalising* principles to give effect to the generalist principles on sustainable finance alignment, stakeholder involvement, transparency, innovation and continuous improvement<sup>vi</sup>. *3P Transparency* should, thus, be complementary to the overarching Global PSSSL and include operationalising elements such as guidelines for memoranda of understanding.
- 1.7 *3P Transparency* should also cover some directly and indirectly overlapping matters, including repo, and, logically, be applicable to the broader field of securities finance.<sup>vii</sup>

### *Key challenges*

*The recommendation for 3P Transparency should consider these key challenges.*

- 1.8 **Commandeering Challenge** – Whereas enhanced governance aims to complement the existing web of interactions, there is a risk that some stakeholders may wish to capture these additional structures to give effect to their own special interests.  
**Solution** – Global PSSSL has provided clear evidence for being able to overcome this risk in the early stages of its development. Global PSSSL went through an early stage of loose association (2018-2020) by engaging such stakeholders as BlackRock and PGGM and functioned as part of a semi-autonomous group at arms lengths with a trade association (2020) to complete its organisational structure as a fully independent and impartial community interest company (CIC). Global PSSSL has also managed to resist any capture as discussed with our College of Advisors in July 2022<sup>viii</sup>.
- 1.9 **Plato's Cave Challenge** – Given its polycentricity and existing web of interactions, some stakeholders may push new solutions for securities lending without adequate peer review. This, in turn, will strengthen some perceptions of securities lending as a siloed, disconnected financial dynamic with benefits for a few at the expense of society<sup>ix</sup>. Major stakeholders have been vocal re: lack of access to impartial information in relation to ESG matters in securities lending<sup>x</sup>.  
**Solution** – Global PSSSL for UN Pathways should continue building bridges with the broader securities finance market (e.g. repo) for these new principles. The focus should still be on





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securities lending and these broader relationships will enhance the rates of success. Global PSSSL needs to emphasize impartiality in the ESG context.

- 1.10 **Trojan Horse Challenge** – The inevitable consequence of bringing more light into securities lending is that there will be a greater engagement<sup>xi</sup> from public interest organisations, including public/national pension funds, NGOs and other genuine not-for profits. Given securities lending’s polycentricism and the existing web of interactions, there is a risk that some commercial players might wish to build or use the not-for-profit structures to push for purely commercial interests.

**Solution** – *3P Transparency* will enable stakeholders wishing to enter into transparent collaborations to be more open with regard to their roles and responsibilities. In doing so, *3P Transparency* should recognise that such boundaries are difficult to draw, given that some public goods are provided by private or semi-private entities.<sup>xii</sup> We should identify where these difficulties sit in the securities lending/finance field.

- 1.11 **National Empire Challenge** – The potential consequence of relying on the existing web of interactions is that some stakeholders/groups that are focussed on national interests may require additional briefing on the benefits of global enhanced governance for transparent securities lending. The potential consequence of ‘national protectionism’ is that some of it might be branded as ‘globally applicable’ and potentially mislead stakeholders who wish to enter the securities lending market in both developed and developing countries.

**Solution** – Global PSSSL for UN Pathways project should lead by example by setting a high bar for global multi-stakeholder collaboration with due respect for national interests. In doing so, Global PSSSL for UN Pathways can encourage stakeholders to work towards their intended/original goals. For example, several stakeholders teamed up with the Bank of England to produce the UK Money Market Code<sup>xiii</sup> which includes certain voluntary best practices for securities lending. As reported by the Financial Times in 2017, “[t]he move by the BoE comes as the central bank is trying to distance itself from scandals, including Libor and forex, which have recently come back to haunt it.”<sup>xiv</sup> Logically in this context, Global PSSSL may continue<sup>xv</sup> briefing the Bank of England to emphasise the BoE’s critical role in ensuring that it works to its original UK goals that include prevention of damaging cartel behaviour such as that relating to London Interbank Offered Rate (LIBOR) in the past<sup>xvi</sup>. Similar briefings may be issued with regard to the broader role of “all mighty” central banks in the context of ESG<sup>xvii</sup>. Furthermore, the global scene is evolving towards embracing some emerging markets as new leaders<sup>xviii</sup>. Independent and impartial Global PSSSL is well positioned to support these new changes by emphasising the importance of global interconnectedness and the disadvantages of excessive national protectionism.

- 1.12 **Muddy Waters for Liquidity Challenge** – Global PSSSL recognises that liquidity is of utmost importance to the markets and the fact that custodian banks face increased liquidity constraints<sup>xix</sup>. However, there is a risk that the roles and responsibilities for maintaining market liquidity may be misunderstood, or even muddled in the context of securities finance and



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sustainable finance. Certain responsibilities for (ensuring) global liquidity might be shifted on to public interest stakeholders (e.g. national pension funds) by invoking ESG concepts.

**Solution** – Securities finance initiatives should be transparent in terms of roles and responsibilities relating to liquidity. There is a need to do more work on the relationship between securities lending and repo. In doing so, we need to recognise the negative consequences of taking excessive liquidity risks by potentially misinformed stakeholders<sup>xx</sup>.

- 1.13 **Greenwashing Challenge** – The appearance of environmental concern and a commitment to green and sustainability issues have become strong public relations tools and have prompted regulatory actions in recent years<sup>xxi</sup>. The above identified challenges may also be linked to the potentially broader concept of *systemic greenwashing*.

**Solution** – *3P Transparency* should include the requirement for organisations to demonstrate the genuine and impactful implementation of their ESG/sustainable finance credentials as part of collaborations and partnerships in order to mitigate any attempts at greenwashing.

Moreover, well designed collaborations will avoid the broader risk of greenwashing through special interest groups as identified by the United Nations' High-Level Expert Group on the Net Zero Emissions Commitments of Non-State Entities during COP 27 in November 2022<sup>xxii</sup>.

Crucially, as the UN Secretary General emphasised: “[t]here must be no room for slow movers, fake movers or any form of greenwashing.”

## Conclusion

The Global PSSL for UN Pathways Project, with its demonstrable experience and mandate, should lead in developing *3P Transparency*. The first version of *3P Transparency* should be published in early 2023 and be subject to further review and consultation.

## Key considerations and evidence provided by Dr Radek Stech

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<sup>i</sup> Global PSSSL (2022). *Launch of the United Nations Pathways for Global PSSSL Project*. Press release. Available at: <<https://gpssl.org/launch-of-the-united-nations-pathways-for-global-pssl-project/>> accessed 20 December 2022.

<sup>ii</sup> Financial Stability Board (2015). *Transforming Shadow Banking into Resilient Market-based Finance. Standards and processes for global securities financing data collection and aggregation*. Available at: <<https://www.fsb.org/wp-content/uploads/FSB-Standards-for-Global-Securities-Financing-Data-Collection.pdf>> p. 38, accessed 12 December 2022; The U.S. Securities and Exchange Commission (SEC) (2009). *Securities lending and short sell roundtable*. Available at: <<https://www.sec.gov/news/openmeetings/2009/roundtable-transcript-092909.pdf>> accessed 12 December 2022; The United States District Court for the Southern District of New York (2017) *Class Action Complaint*. No. 17 Civ. 6221. Available at: <[https://www.cohenmilstein.com/sites/default/files/Complaint\\_IPERS\\_et\\_al\\_v\\_Bank\\_of\\_America\\_et\\_al\\_81617.pdf](https://www.cohenmilstein.com/sites/default/files/Complaint_IPERS_et_al_v_Bank_of_America_et_al_81617.pdf)> accessed 20 December 2022.

<sup>iii</sup> University of Exeter Law School (2018). *SFLS CEO advocates Sustainable Finance principles at 2018 European Securities Lending Forum*. Available at: <<https://law.exeter.ac.uk/newsandevents/news/articles/sflsceoadvocatessustainabl.php>> accessed 31 October 2022. The work between 2018 and early 2020 was strictly between Dr Radek Stech and these free organisations including BlackRock, NN IP and PGGM, whereas the work in 2020 was based upon these organisations working under Stech's independent chairmanship of a semi-autonomous body, with own agreed governance, and at arms-length with a trade association. See also: Letter from Dr Radek Stech (1 November 2022). Re: File No. S7-18-21: Reporting of Securities Loans and Re: File No. S7-17-22: Environmental, Social, and Governance Disclosures for Investment Advisers and Investment Companies: *Towards enhanced governance for transparent and sustainable global securities lending*. Available at: <<https://www.sec.gov/comments/s7-17-22/s71722-20149095-316284.pdf>> accessed 20 December 2022; Since then, NN IP has been integrated into Goldman Sachs Asset Management. See: Goldman Sachs (2022). *Goldman Sachs Completes Acquisition of NN Investment Partners*. Available at: <<https://www.goldmansachs.com/media-relations/press-releases/2022/announcement-11-apr-2022.html>> accessed 20 December 2022.

<sup>iv</sup> The early version of Global PSSSL was directly adopted by organisations beyond the initial free drafters (Ibid) including HSBC Asset Management. See: HSBC Asset Management – UK Stewardship Code Report 2021, p. 71. Available at: <<https://www.frc.org.uk/getattachment/1d0e5db6-3cc4-48b8-a91c-538e9aa1d738/HSBC-Asset-Management-UK-Stewardship-Code-Report-2020.pdf>> accessed 21 December 2022.

<sup>v</sup> Stech *supra* note 1

<sup>vi</sup> Global Principles for Sustainable Securities Lending (Global PSSSL) 2021. Available at: <<https://gpssl.org/wp-content/uploads/2021/09/Global-PSSL-2021-supported-by-opening-signatories.pdf>> accessed 31 October 2022.

<sup>vii</sup> Some of these overlaps were identified in the recent report by ICMA. See: Zhan Chen, ICMA (2022). *Observations and categorisation relating to sustainability in the repo market*. International Capital Market Association. Available at: <<https://icmagroup.us11.list-manage.com/track/click?u=b205184c508371a5b962c65f8&id=f55dcc9ebc&e=fa1d349a70>> accessed 21 December 2022.

<sup>viii</sup> Global PSSSL (2022). *Global PSSSL College of Advisors. Annual meeting*. Available at: <<https://gpssl.org/wp-content/uploads/2022/11/College-of-Advisors-and-CEO-Actions-23-November-2022.pdf>> accessed 20 December 2022.

<sup>ix</sup> See for example: Comments on Proposed Rule: Reporting of Securities Loans: Available at: <<https://www.sec.gov/comments/s7-18-21/s71821.htm>> accessed 20 December 2022.

<sup>x</sup> Stech *supra* note 1, p. 12

<sup>xi</sup> This engagement may be direct through participation in securities lending programmes or indirect through broader collaboration on best practice, recommendations and standards.



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<sup>xii</sup> See for example: European Court Reports 1990 I-03313. *Judgment of the Court of 12 July 1990. A. Foster and others v British Gas plc*. Available at: <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61989CJ0188>> accessed 20 December 2022.

<sup>xiii</sup> Bank of England (2021). *The UK Money Markets Code*. Available at: <<https://www.bankofengland.co.uk/-/media/boe/files/markets/money-markets-committee/uk-money-markets-code.pdf>> accessed 20 December 2022.

<sup>xiv</sup> Binham, C. (2017). Bank of England sets out code of conduct for money markets. *The Financial Times*. Available at: <<https://www.ft.com/content/7c86588b-992d-3de3-89c5-d0f87e107cf5>> accessed 20 December 2022.

<sup>xv</sup> Radek Stech, 'Sustainable finance principles and securities lending: a transparency update', Presentation delivered at the Securities Lending Committee of the Bank of England, 4th November 2021 (Global PSSSL 2021). Available at: <<https://gpssl.org/wp-content/uploads/2021/12/Global-PSSL-Bank-of-England-presentation-4th-November-2021.pdf>> accessed 20 December 2022.

<sup>xvi</sup> Financial Conduct Authority (2019). *About LIBOR transition*. Available at: <<https://www.fca.org.uk/markets/libor-transition#revisions>> accessed 20 December 2022.

<sup>xvii</sup> Mare, D. S. (2021). Introducing ESG Criteria in Developing Countries Banking Sectors. Available at: <[https://gpssl.org/wp-content/uploads/2021/04/2021\\_03\\_30\\_GPSSL\\_web-.pdf](https://gpssl.org/wp-content/uploads/2021/04/2021_03_30_GPSSL_web-.pdf)> accessed 20 December 2022.

<sup>xviii</sup> PWC (2017). *The long view: how will the global economic order change by 2050?* Available at: <<https://www.pwc.com/gx/en/world-2050/assets/pwc-the-world-in-2050-full-report-feb-2017.pdf>> accessed 20 December 2022.

<sup>xix</sup> BIS. *Basel III: international regulatory framework for banks*. Available at: <<https://www.bis.org/bcbs/basel3.htm>> accessed 20 December 2022; European Commission (2021). *Banking Package 2021: new EU rules to strengthen banks' resilience and better prepare for the future*. Available at: <[https://ec.europa.eu/commission/presscorner/detail/en/ip\\_21\\_5401](https://ec.europa.eu/commission/presscorner/detail/en/ip_21_5401)> accessed 20 December 2022.

<sup>xx</sup> The recent UK House of Common's inquiry into the liability driven investments (LDIs) may serve as a good example of practices based on misinformation. See quote by John Ralfe: "The investment consultants are the villains of the piece. Their business model relies on complexity. Each of the large firms have certainly dozens, it is probably hundreds, of mouths to feed. They are all about pushing complex expensive products of one sort or another, and the product that they have been pushing for the last few is leveraged LDI." See <https://committees.parliament.uk/oralevidence/11924/pdf/> (accessed 24 November 2022) p. 16. The UK Parliament has corrected the report and the above quote is no longer available. Nevertheless, it was partly quoted by the Financial Times. See: Cumbo, J. (2022). Gilt crisis was major factor in £500bn hit to UK pension funds, MPs told. *Financial Times*. Available at: <<https://on.ft.com/3gvyc81>> accessed 21 December 2022.

<sup>xxi</sup> See for example: European Banking Authority (2022). *ESAs launch joint Call for Evidence on greenwashing*. Available at: <<https://www.eba.europa.eu/esas-launch-joint-call-evidence-greenwashing>> accessed 20 December 2022.

<sup>xxii</sup> "Non-state actors cannot lobby to undermine ambitious government climate policies either directly or through trade associations or other bodies" in: United Nations' High-Level Expert Group on the Net Zero Emissions Commitments of Non-State Entities (2022). *Integrity Matters: Net Zero Commitments by Businesses, Financial Institutions, Cities and Regions*, p. 7. Available at: <[https://www.un.org/sites/un2.un.org/files/high-level\\_expert\\_group\\_n7b.pdf](https://www.un.org/sites/un2.un.org/files/high-level_expert_group_n7b.pdf)> accessed 20 December 2022.

<sup>xxiii</sup> United Nations (2022). *Secretary-General's video message to the Principles for Responsible Investment Conference, 30 November – 2 December 2022*. Available at: <<https://www.un.org/sg/en/content/sg/statement/2022-11-30/secretary-generals-video-message-the-principles-for-responsible-investment-conference-30-november-%E2%80%93-2-december-2022>> accessed 20 December 2022.