

Global Principles for Sustainable Securities Lending Progress Report

Engagement with EU regulators: EBA, EIOPA and ESMA

Global PSSL
Secretariat



The progress report was issued by the Global PSSL Secretariat.



Creating a Global ESG Market Standard
for Owners, Lenders, Borrowers and
Impact Creators

January 16, 2023

Re: 2022 ESA Request for evidence on greenwashing

3P Transparency as a solution to prevent (systemic) greenwashing

Dear European Supervisory Authorities,

Thank you for giving me the opportunity to engage with the European Supervisory Authorities in relation to the problem of greenwashing.

Global Principles for Sustainable Securities Lending (Global PSSSL) is the fundamental global mechanism for aligning securities lending with transparency and sustainable finance. It has been co-created by myself, prominent asset owners, asset managers, sovereign wealth funds, banks, hedge funds and other stakeholders committed to positive change since 2018. In order to preserve its impartiality, the Global PSSSL framework is based within its own independent community interest company.

3P Transparency and (systemic) greenwashing

In 2022, I was approached by the United Nations (UN) Environment Programme Finance Initiative and, following various conversations, I launched the Global PSSSL for UN Pathways programme¹.

In December 2022, Global PSSSL for UN Pathways adopted a strategic decision based on my recommendation and engagement with the U.S. Securities and Exchange Commission for new

¹ <https://gpssl.org/launch-of-the-united-nations-pathways-for-global-pssl-project/>



Creating a Global ESG Market Standard for Owners, Lenders, Borrowers and Impact Creators

operationalising principles on Transparent Public, Private, and Polycentric (3P) Collaboration in Securities Finance (3P Transparency)². (see also Annex A below).

3P Transparency will put enhanced governance into action to prevent greenwashing and capture by fake movers.

3P Transparency will complement the work Global PSSSL started in 2018 in setting high standards for transparent and sustainable securities lending. It will operate across a \$€£ trillions finance agenda, enabling stakeholders, striving for genuine and lasting improvements in securities finance, to consciously identify common goals, conflicts of interests and ways of working together through collaborations and partnerships. 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.

I would also like to draw ESA's attention to my recommendation for *3P Transparency* which considers key challenges that relate to the broader concept of potential "*systemic greenwashing*"³.

Other relevant considerations

Global PSSSL has worked on a number of programmes that directly or indirectly relate to (systemic) greenwashing:

1. "Minimum Voluntary ESG Standard on Short-Long Investment Dynamic: Short Activism", which enables short sellers to engage with environmental and social considerations to complement their campaigns. This minimum standard aims at weeding out green, and social, wash⁴. (See also Annex B below).
2. "Global PSSSL Progress Report #9-2021"⁵, in which we identified a greenwashing risk in relation to collateral in securities lending. (See Annex C below).
3. My Presentation at the Bank of England: "Sustainable finance principles and securities lending - A transparency update", in which I referred to greenwashing risks in securities lending⁶. (See Annex D below).

² <https://gpssl.org/global-pssl-for-un-pathways-to-lead-on-new-practical-solution-for-transparent-and-sustainable-trillions-agenda/>

³ Ibid (see *3P Transparency*, p. 6 also in Annex A below)

⁴ <https://gpssl.org/wp-content/uploads/2021/03/Global-PSSL-Market-standard-on-short-activism-30-March-as-introduced.pdf>

⁵ <https://gpssl.org/wp-content/uploads/2021/10/Progress-report-9-2021-collateral.pdf>; See also: <https://gpssl.org/wp-content/uploads/2021/07/Global-PSSL-draft-standard-on-collateral-published-on-29-July-1.pdf>

⁶ <https://gpssl.org/wp-content/uploads/2021/12/Global-PSSL-Bank-of-England-presentation-4th-November-2021.pdf>

Global Principles for Sustainable Securities Lending



Creating a Global ESG Market Standard
for Owners, Lenders, Borrowers and
Impact Creators

I would like to emphasise that I am supportive of the European and global regulators' goal to increase transparency and minimise greenwashing in financial markets. However, drawing also on my extensive knowledge of EU law/policy/regulation and common law as a senior academic at Exeter Law School, I am convinced that binding regulation must be complemented with *enhanced governance* i.e. strong principles, authentic industry collaboration, multi-stakeholder engagement, supervision and technological developments.

Thank you very much for your attention.

Kind regards

Dr Radek Stech

Founder and CEO

Global Principles for Sustainable Securities Lending CIC

[Executive Chair – Global PSSL for UN Pathways](#)



<https://gpssl.org/>

Global PSSL is governed and run as a non-profit and impartial Community Interest Company registered in England and Wales with company number 12936602.



Creating a Global ESG Market Standard
for Owners, Lenders, Borrowers and
Impact Creators

ANNEX A

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.



Creating a Global ESG Market Standard
for Owners, Lenders, Borrowers and
Impact Creators

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



Creating a Global ESG Market Standard
for Owners, Lenders, Borrowers and
Impact Creators

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.

- ^{3P} *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.
- ^{3P} *3P Transparency* will encourage the efforts of serious players to build collaborations and partnerships based on solid foundations.
- ^{3P} *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.



Creating a Global ESG Market Standard
for Owners, Lenders, Borrowers and
Impact Creators

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.ⁱ 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-standingⁱⁱ, Global PSSSL has set the international sustainability agenda in this field since 2018; initially as an independent association of free organisationsⁱⁱⁱ. 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*^{iv}.
- 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^v.
- 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



Creating a Global ESG Market Standard for Owners, Lenders, Borrowers and Impact Creators

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^{vi}. *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.^{vii}

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 PGM 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^{viii}.
- 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^{ix}. Major stakeholders have been vocal re: lack of access to impartial information in relation to ESG matters in securities lending^x.
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



Creating a Global ESG Market Standard for Owners, Lenders, Borrowers and Impact Creators

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^{xi} 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.^{xii} 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^{xiii} 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.”^{xiv} Logically in this context, Global PSSSL may continue^{xv} 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^{xvi}. Similar briefings may be issued with regard to the broader role of “all mighty” central banks in the context of ESG^{xvii}. Furthermore, the global scene is evolving towards embracing some emerging markets as new leaders^{xviii}. 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^{xix}. 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



Creating a Global ESG Market Standard for Owners, Lenders, Borrowers and Impact Creators

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^{xx}.

- 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^{xxi}. 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^{xxii}.

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

Founder and CEO

Global Principles for Sustainable Securities Lending CIC

Executive Chair – Global PSSL for UN Pathways

Global Principles for Sustainable Securities Lending



Creating a Global ESG Market Standard
for Owners, Lenders, Borrowers and
Impact Creators

ⁱ 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.

ⁱⁱ 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> accessed 20 December 2022.

ⁱⁱⁱ 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.

^{iv} 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.

^v Stech *supra* note 1

^{vi} 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.

^{vii} 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.

^{viii} 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.

^{ix} 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.

^x Stech *supra* note 1, p. 12

^{xi} This engagement may be direct through participation in securities lending programmes or indirect through broader collaboration on best practice, recommendations and standards.

Global Principles for Sustainable Securities Lending



Creating a Global ESG Market Standard
for Owners, Lenders, Borrowers and
Impact Creators

^{xii} 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.

^{xiii} 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.

^{xiv} 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.

^{xv} 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.

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

^{xvii} 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> accessed 20 December 2022.

^{xviii} 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.

^{xix} 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> accessed 20 December 2022.

^{xx} 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.

^{xxi} 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.

^{xxii} "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> accessed 20 December 2022.

^{xxiii} 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.



ANNEX B

Creating a Global ESG Market Standard
for Owners, Lenders, Borrowers and
Impact Creators



Creating a
Global ESG Market Standard
for Owners, Lenders, Borrowers and
Impact Creators.

Minimum Voluntary ESG Standard

Short-Long Investment Dynamic: Short Activism

Objective

Undoubtedly, many short sellers and short activists have focused their campaigns on detecting fraud and poor governance over many yearsⁱ. Through their actions, they have contributed to advancing the 'G' component in ESG thinking on the global sustainable finance market. Recently, the debate has shifted towards creating impact by taking a more holistic approach to ESG when possibleⁱⁱ. More importantly, the agenda is shifting towards weeding out green, and social, washⁱⁱⁱ.

This dedicated voluntary standard offers a solid framework to enable short sellers to engage with environmental and social considerations to complement their campaigns. It will describe and clarify the specific elements that they should consider during their day-to-day dealings to demonstrate a consistent and dedicated commitment to environmental and social matters. Moreover, to facilitate the continual evolution of this standard, Global PSSSL will encourage and welcome ongoing feedback on the opportunities (and any limitations) encountered during its implementation.

Benefits to the Community of Short Sellers

Leadership: short sellers will be positioned as leaders in advancing the transparent sustainable finance agenda and co-creating a standard with an independent non-profit Global PSSSL/University of Exeter.

Filling the gap: short selling and short activism is 'a unique finance dynamic'^{iv} that does not benefit from a dedicated ESG standard.

Flexible and complementary: this standard does not aim at changing individuals' unique business models or to standardise short selling. Rather, it offers a consistent approach to engaging with environmental and social matters.

Ideologically independent: we do not prescribe what 'good action' is: the objective is to raise awareness and become a catalyst for action, when deemed appropriate by the short seller.

Recognition and validation: Global PSSSL can provide recognition for campaigns that react to environmental and social matters in line with this standard^v.

Global Principles for Sustainable Securities Lending



Creating a
Global ESG Market Standard
for Owners, Lenders, Borrowers and
Impact Creators.

Methodology – The ESG ACTION Guidelines

This standard encourages the continuous scrutiny of organisations' practices against their environmental and social responsibility. By following the ACTION Guidelines, short sellers not only enrich their due diligence but also contribute to the ongoing development of Global PSSSL and, in turn, the global sustainable finance agenda.



Be Aware

Choose a list of ESG focal points recommended by Global PSSSL, or use another list that's more pertinent to your business.

Global PSSSL will keep the list of environmental and social matters that short sellers use (on an anonymous basis).

Be Critical

Be critical and vigilant to any potential environmental or social malpractice at every stage of your due diligence.

There is no need to test unless something proves to be materially significant to you.

Global Principles for Sustainable Securities Lending



Creating a
Global ESG Market Standard
for Owners, Lenders, Borrowers and
Impact Creators.

Test for potential environmental and social malpractice and formulate a plan

See annex 1, below (test itself to be calibrated in as the implementation of the standard progresses):

- Investigate the authenticity of ESG claims (green wash and social wash).
- Identify potential environmental and social harm.

There is no need to formulate a plan unless you find evidence of malpractice.

Implement your plan

Global PSSSL will provide a non-exhaustive list of actions that may fall under your plan implementation, e.g.:

- Do nothing as the matter proved insignificant and/or commercially unviable.
- Short the stock immediately.
- Refer to an NGO/another organisation – anonymously or not.
- Invest more money into your own due diligence (e.g. hire consultants; commission new research).
- For extremely serious harm, inform appropriate authorities (e.g. environmental agencies or the authorities) – anonymously or not.

Observe the results

Observe and reflect on the outcomes of your plan, when appropriate, e.g.:

- If you did nothing, remain vigilant, as the matters could intensify in the future.
- If you shorted immediately, have the market/media/observers picked up environmental and social matters?
- If you invested more money, do you have stronger evidence for E/S malpractice? If you shorted subsequently, is there a return on your investment?
- For extremely serious harm, have authorities taken any action?

Notify Global PSSSL (to also gain recognition/validation at later stage)

Share 'lessons learnt' with Global PSSSL following the short selling disclosure and contribute to the further development of the standard to enhance its future application. Share the information in your report as appropriate.

Global Principles for Sustainable Securities Lending



Creating a
Global ESG Market Standard
for Owners, Lenders, Borrowers and
Impact Creators.

Annex 1: Test for potential environmental and social malpractice

Environmental Matters:	<p>A. Investigate the authenticity of ESG claims (green wash). Has the corporate:</p> <ul style="list-style-type: none">• Provided adequate environmental information in its annual reports, its marketing outputs etc.?• Followed all procedures as stated by the law/regulation?• Met environmental targets/quotas provided by law/regulation?• Met declared performance/quality outcomes? <p>B. Identify potential environmental harm.</p> <ul style="list-style-type: none">• Has the corporate caused harm to the environment? Examples to be provided.
Social Matters:	<p>A. Investigate the authenticity of ESG claims (social wash). Has the corporate:</p> <ul style="list-style-type: none">• Engaged with/provided adequate information to the public and concerned/employees/informal sector (=stakeholders) when required by law/regulation?• Met all stated inclusion/diversity targets?• Provided the redress mechanisms to stakeholders, when required? <p>B. Identify potential social harm. Has the corporate:</p> <ul style="list-style-type: none">• Caused human rights related harm to the stakeholders?• Caused labour rights related harm to the stakeholders?

Radek Stech for ESG Workstream co-led by him, Carson Block, Gabriel Grego, John Hempton and Anne Stevenson-Yang.

Comments are welcome: radek.stech@gpssl.org



SUSTAINABLE
FINANCE|LAW
& STAKEHOLDERS



Economic
and Social
Research Council



Global Principles for Sustainable Securities Lending



Creating a
Global ESG Market Standard
for Owners, Lenders, Borrowers and
Impact Creators.

Disclaimer

Global PSSSL and this minimum ESG Standard on Short-Activism are voluntary and do not create any legal rights or obligations. Global PSSSL will work on the recognition scheme for short sellers. It will issue a mechanism by which issuers may also reflect upon the ESG statements in the campaigns that conform with the Global PSSSL standard.

ⁱ Lou, X, Karpoff, M. J. 2010. Short Sellers and Financial Misconduct. The Journal of Finance Vol 65 (5): 1879-1913; Chen, L. 2016. The informational role of internet-based short-sellers: The evidence from short-sellers' reports on US-listed Chinese firms. Journal of Business Finance & Accounting 43 (9-10): 1444-1482.

ⁱⁱ Stech R. 2019. 'Sustainable Finance, the Law and Stakeholders: Towards Responsible Social Movements.' In: Onyeka, K. O, Ngwu, F. N. and Jamali. D. eds. Corporate Social Responsibility in Developing and Emerging Markets. Institutions, Actors and Sustainable Development. Cambridge University Press, pp. 365 -394

ⁱⁱⁱ The UK Competition and Markets Authority launched an investigation into an environmental misrepresentation: < <https://www.gov.uk/government/news/cma-to-examine-if-eco-friendly-claims-are-misleading>>, accessed on 29 March 2021.

^{iv} This finance dynamic is positioned in the overarching complex finance dynamic relating to sustainable securities lending and borrowing.

^v Global PSSSL will work on the recognition mechanism in due course.



ANNEX C

Creating a Global ESG Market Standard
for Owners, Lenders, Borrowers and
Impact Creators

Global Principles for Sustainable Securities Lending Progress Report #9-2021

Workstream progress

Interconnected collateral



This progress report was issued by Global PSSSL in consultation with all contributors.

Workstream contributors as part of the joint meetings and/or follow ups/separate discussions (f.u.s.d.):

Martin Aasly	NN IP	Yin Yin Ng and Joel Wong	GIC Singapore
Jerome BLAIS and Xavier Jacobee	BNP Paribas Triparty Agent	Oliver Stringer (f.u.s.d.)	Barclays
James Day	State Street	Roelof van der Struik (f.u.s.d.)	PGCM
Sunil Daswani and Weronika Roksana Jaworek (f.u.s.d.)	Standard Chartered	Juanita Taylor	Standard Bank
Piotr Dmuchowski (f.u.s.d.)	Global PSSSL College of Advisors	Jean Turner	Investec Bank
Naotsune Nagaoka (f.u.s.d.)	Sumitomo Mitsui Trust Bank, Ltd	Roy Zimmerhansl (f.u.s.d.)	Global PSSSL College of Advisors

The current practice part of the draft standard was discussed with five end users as part of Short – Long Investments and ESG workstream. These participants highlighted broader greenwashing risks re: collateral (currently assessed by Global PSSSL). Global PSSSL received considerable submissions from a triparty agent based in Asia as part of follow ups/separate discussions. These were peer reviewed as extremely useful as part of the workstream and follow up meetings. The London branch of the Asian triparty agent did not have the capacity to review these comments and, consequently, decided not to give Global PSSSL permission to name the Asian triparty agent publicly.

Progress report

The Moderator (Radek Stech) introduced the subject of the key meeting (23 March 2021), reminded the group about the background and how the principles were created – given the commitment in the summer 2020 to develop an ESG collateral basket. The initial objective of the Collateral workstream was to come up with a minimum voluntary standard for ESG collateral. The Moderator suggested proceeding by focusing on the minimum standard as much as possible with the thought of breaking down the group into subgroups working on certain points in the next couple of weeks.

Global PSSL used the feedback from the participants in the meeting and several separate follow-ups/discussions to draft the “Current Agenda” of the draft standard [“Strengthening sustainable finance with an interconnected collateral for securities lending. A forward-looking market standard.”](#) The remaining parts of the standard were drafted as a result of discussions with the Global PSSL College of Advisors and the broader sustainable finance experts.

Participation in the workstream and any contributions from separate follow-ups/discussions do not constitute an endorsement for the draft standard.



ANNEX D

Creating a Global ESG Market Standard
for Owners, Lenders, Borrowers and
Impact Creators



Creating a Global ESG Market Standard
for Owners, Lenders, Borrowers and
Impact Creators

Transparency Update

Presented by Dr Radek Stech, Founder and CEO, Global PSSSL,
at the invitation of the Bank of England
Securities Lending Committee

Thursday 4th November 2021

CITATION: 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).

Thank you very much for the invitation – I am truly honoured.

Today I will focus on broad ESG and market trends and provide a transparency update on securities lending through the lens of voluntary principles. If you'd like to visit gpssl.org, you'll be able to read about the principles and market standards we've been creating with stakeholders.

A. Sustainable finance principles

1. Nature and importance

I will draw on my broader sustainable finance expertise and my early research contacts with the World Bank for this section of my presentation.

The voluntary principles-based approach in sustainable finance has been used for a long time to achieve specific ESG-related outcomes and influence the industry's behaviour for those outcomes. These include Equator Principles for project finance, Green Bond Principles for bond finance, Global PSSL for securities lending and UN Principles for Responsible Banking. The nature of the principles is to guide industry and provide a direction for more detailed technical work. They also provide industry with a roadmap to implementation, continuous improvement and a verification of progress. In other words, principles constitute a pathway to execution.

2. Principles and law

Broadly speaking, the principles-based approach often forms part of a legal regime, especially in common law or European Union Law. When the principles fail (e.g. through diverse judicial interpretation), legislators or regulators impose rules. In international and domestic environmental law, some principles were adopted as binding by legislators/regulators (notably, the 'polluter pays principle'). Similarly in sustainable finance, we have seen legislators/regulators learning from Green Bond Principles or, recently, Global PSSL.

There are numerous incentives to embrace and implement principles which are appropriate for the whole community of stakeholders, e.g.: lower costs of compliance, action without cumbersome binding regulation and gains in innovation. However, there may be high costs, if the stakeholders pay a lip service to the principles or choose Principles that do not particularly fit those stakeholders (I shall talk about this in a moment).

3. Principles and sustainable finance:

- top-down approaches;
- bottom-up approaches.

As you know, I have worked on promoting a principles-based approach for securities lending since 2018. As part of this work, I co-organised a workshop with Aberdeen Standard Investments on 20 March 2019, where I argued:

"There is a clear need for SF [sustainable finance] principles in securities lending because this is a complex finance dynamic (CFDs), which is governed by a series of legal deals and depends on the collaboration of several key players. Thus, it is insufficient to rely on the existing broad principles such as the Principles for Responsible Investment (PRI) which focus more on organisational practices rather than CFDs. We should strive to align with developing

global agendas; co-create the principles and make them adaptable to different contexts and jurisdictions.”¹

PRI and UN PRB are examples of top-down approaches that target broad organisational/investment practices whereas Equator Principles/Green Bond Principles/Global PSSL apply to financial structures (that I call CFDs). It would be confusing and misleading to rely on PRI/UN PRB only for the green bond market or securities lending market. The broad PRI/UN PRB cannot capture the intricacies of complex finance dynamics that rely on the interaction of multiple stakeholders, who often have conflicting interests.

I emphasised this as part of my work as the co-founder and chair of the ISLA Council for Sustainable Finance that provided an initial home for Global PSSL.

.....

B. Securities Lending

1. Objectives and importance

As you know, securities lending is a facilitating financial structure that allows for a temporary collateralised transfer of a security from a lender to a borrower. It is an important mechanism for market liquidity and equilibrium. It has significant potential to influence the environmental, and social and governance (ESG) credentials of asset owners investments. I want to emphasise that, as I analyse the current situation, it is still debatable whether this influence will be positive, negative or neutral.

2. Issues

Securities lending is not a common career aspiration for students who want to succeed in financial services and, as a result, the sector suffers from a limited inflow of fresh and diverse talent. Some of the best securities lending experts I have worked with so far were also experts in trading, investments and broader finance. Hence the overall misunderstanding of securities lending amongst the broader community of professionals and an increased risk of oligopolisation by a small number of stakeholders. In fact, several Global PSSL opening signatories told me that Global PSSL increases trust and confidence in the markets so there is obviously a room for improvement in this area.

3. Securities lending and sustainable finance.

The Sustainable finance agenda has called for serious changes to the financial services industry for many years. Securities lending is, ultimately, a short-term activity with some governance and transparency issues and the sector needs to make greater efforts to align with the sustainable finance agenda. It is not enough to frame securities lending as compatible with ESG. In a similar fashion, one cannot frame unconditional flows of public capital to emerging markets in the name of ‘developmental agenda’.

¹ Joint paper with Nicolas Firzli.

4. Risks and importance of transparency.

Liquidity is extremely important but it is premature to portray securities lending as a wholesome mechanism for the climate change agenda. First, such framing poses an obvious risk of greenwashing and, second, a risk of not improving the 'Governance' part of securities lending in the long-term.

A year ago, this Committee:

"noted that governance considerations should not be an issue for securities lending".²

I need to emphasise that several Global PSSL signatories emphasised Governance as one of the most important reasons for their signature. Also, at the time when Eurex decided to close its lending CCP in early 2021, Matthias Graulich, Member of the Executive Board at Eurex, highlighted that securities lending was "still a bespoke market and less transparent" when compared with repo transactions³

As a lawyer, I am aware that transparency has to be constantly negotiated as there are commercial and prudential reasons to limit it in financial services. Yet, transparency of the securities lending markets is much more pronounced and must be the priority for the whole community of practitioners, including this Committee.

.....

C. Transparency Update

I now turn to my transparency update and let me emphasise our Principle 3 (Transparency) provides clear authority, and consequently, an obligation, for Global PSSL to issue such periodic transparency updates:

"Global PSSL will increase transparency and accountability in securities lending, and the broader area of sustainable finance."

This authority is not embedded in any other generalist principles for sustainable finance (e.g. PRI or UN PRB) so let me rely on this authority or let me know any objections before I continue.

[Pause to respond to any objections]

Thank you – I also remind you about our signatories' commitment to providing accurate information about their sustainable securities lending approaches and activities.

D. Transparency Update II

I shall proceed to the transparency update by following Global PSSL Principles but I will focus on general market trends rather than internal Global PSSL accomplishments. Though, when appropriate, I will refer to our papers which have been issued in the public interest.

² <https://www.bankofengland.co.uk/-/media/boe/files/minutes/2020/securities-lending-committee-november-2020.pdf?la=en&hash=0059FFFEAEDC223B95D32D48C201A64356BC721F>

³ <https://finadium.com/sfm-interview-eurex-to-close-lending-ccp-as-buy-side-repo-growth-accelerates-premium/>

1. Alignment

There are some stakeholders who do not fully appreciate the existence of a principles-led dedicated sustainable finance market standard for securities lending. This will likely trigger a broader discussion on the sustainable finance alignment at the international level.

2. Stakeholder involvement, inclusion and diversity.

This Committee has devoted lots of time to diversity and inclusion, and I applaud these efforts. All stakeholders need to work together with this Committee and individual organisations; embrace efforts by Women in Securities Finance and the Global PSSL Mentorship Programme to make tangible and lasting changes in this space.

Sadly, we also need to intensify our efforts to create the broader stakeholder involvement. Recently, for example, there has been a wider discussion about Global PSSL being inclusive of differing views.

3. Transparency

I devoted much space to transparency above.

4. Interconnected sustainable finance collateral

I have worked on this specific matter for almost three years, initially as part of the working group with beneficial owners. In 2019, we considered the minimum and maximum requirements for collateral in relation to sustainable securities lending. I assigned this task to BlackRock.

There is a clear trend away from emphasising the efficiency/liquidity aspects of collateral towards emphasising the potential ESG credentials of collateral.

However, while collateral is increasingly linked to ESG matters, there are stakeholders that warn of greenwashing risks (see our recent progress report on interconnected collateral).⁴

Global PSSL emphasised safety, liquidity and transparency as part of its standard for interconnected collateral. We drew on the current practice of many organisations, including those represented at this Bank of England Committee.

Given this update, I think it is premature and irresponsible to lobby for environmental elements of collateral prior to solving the potential greenwashing risks. Global PSSL will advocate safety and transparency in the first instance.

5. Supportive tax

We have emphasised tax as part of a minimum forward looking standard for emerging markets (e.g. with Standard Bank and Investec from South Africa).⁵

6. Values-based short selling

We have made much progress in this area, notably our minimum standard on ESG and short activism.⁶

⁴ <https://gpssl.org/wp-content/uploads/2021/10/Progress-report-9-2021-collateral.pdf>

⁵ <https://gpssl.org/wp-content/uploads/2021/09/Global-PSSL-Emerging-Markets-Draft-Standard-14-September-2021.pdf>

⁶ <https://gpssl.org/wp-content/uploads/2021/03/Global-PSSL-Market-standard-on-short-activism-30-March-as-introduced.pdf>

I have drawn on my experience with values-based banks in advancing this area. There is a trend where hedge funds now focus on the broader picture, to include values and ESG considerations in tandem with profit.

7. Voting and engagement

Beyond our principle that invites beneficial owners to perform impact assessments, we are now conducting a more detailed analysis of this matter.

8. Innovation and digitalisation

To quote part of the Principle: "Global PSSL recognises that a broader stakeholder base can provide new solutions and technologies that enhance sustainable securities lending."

Indeed, we observe a market trend where a broader stakeholder base wishes to co-create solutions for sustainable securities lending. Inevitably, this comes down to our Principles on stakeholder involvement and certain trends regarding the exclusive practices of some stakeholders.

9. Continuous improvement

There is a clear trend where regulators recognise the distinction between commercial interests (represented by trade associations) and public community interests (represented by Global PSSL) in the securities lending market. Several regulators have signalled, privately, they welcome hearing a stronger public voice in the debate.

E. Moving forward

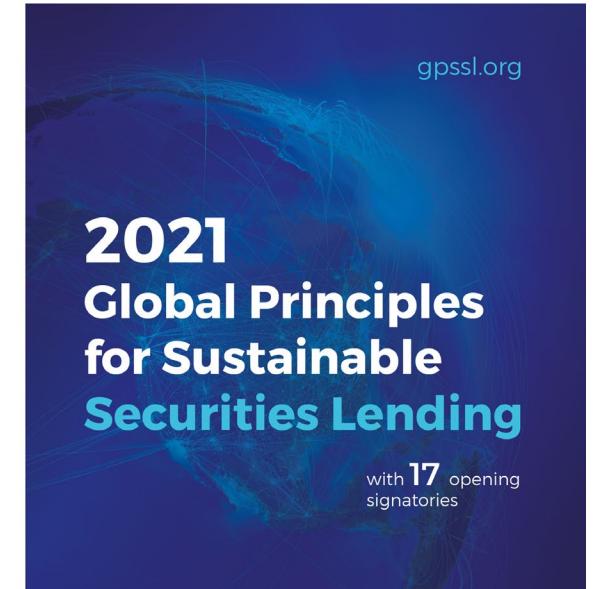
This update forms part of our commitment and authority under the Global PSSL principle on Transparency. I hope you appreciate how the public community interest keeps securities lending grounded in genuine values.

I strongly suggest we deliver further transparency updates on a regular basis to this Committee, either as part of the 'ESG' agenda item or a separate 'Transparency' agenda item. In that event, I would be happy to send out a progress report a few days before future Committee meetings so that attendees have a chance to prepare any questions in advance. I confirm that I will consult the next draft transparency update with international organisations before sending it to this Committee."

Thank you for your time. I look forward to addressing this committee again in the next meeting in the New Year!

-END-

“Sustainable finance principles and securities lending: a transparency update.”



Dr Radek Stech
Founder and CEO, Global PSSL CIC

Status: official presentation at The Bank of England
Securities Lending Committee
4 November 2021

Sustainable finance principles

Nature and importance.

Principles and law.

Principles and sustainable finance:

- top-down approaches;
- bottom-up approaches.



Securities lending

Objectives and importance.

Issues.

Securities lending and sustainable finance.

Risks and importance of transparency.



Transparency update

Authority: Global PSSSL Principle 3:

“Global PSSSL will increase transparency and accountability in securities lending, and the broader area of sustainable finance.”

Commitment to ‘accuracy’.



Transparency update

Alignment.

Stakeholder involvement, inclusion and diversity.

Transparency.

Interconnected sustainable finance collateral.

Supportive tax.

Values-based short selling.

Voting and engagement.

Innovation/digitalisation.

Continuous improvement.



Moving forward



Thank you

I can be contacted at: radek.stech@gpssl.org

Main funders:

