ICSF Position Statement

The ISLA Council for Sustainable Finance (ICSF) recognises the severity of the current situation caused by the COVID-19 pandemic. We believe that by demonstrating a collective commitment to the sustainability agenda, we can stimulate the market and increase investor confidence. ICSF is also confident in beneficial owners’ potential to mitigate the effects of this crisis as much as possible.

Our position is that both securities lending and short selling are positive mechanisms in this context, as long as they conform with the overarching Principles for Sustainable Securities Lending (PSSL). Our member base has already committed to adopting PSSL, and this crisis should serve as an incentive to expedite the implementation of these principles globally.

We stress that regulators’ roles are to make appropriate decisions to ensure the stability of financial markets. However, we notice a regulatory divergence with several states imposing temporary bans on short selling, whilst others actively opposing such decisions. The ICSF position is that an inconsistent approach by global regulators is counterproductive and that further positive guidance on best practice is required.

As ICSF is uniquely positioned to combine finance with sustainability, it can contribute to this debate with fresh ideas. We commit to working with regulators so that we can demonstrate the potential for PSSL to help with market recovery, strengthen global markets, encourage diversity and inclusion, and reinforce the overall sustainable finance agenda.

1. Relevant Considerations

1.1 Role of the Principles for Sustainable Securities Lending

1.1.1 In pursuing PSSL at the early stages, we were encouraged by evidence of the numerous advantages that securities lending offers to financial markets that, in turn, translates into tangible benefits for the real economy. Human prosperity also depends upon the performance of financial markets which, by their nature, are prone to fluctuation. Liquidity (or in other words, an ability to buy and sell financial products quickly) is an essential component of well performing financial markets, and evidence shows that shutting down just one firm’s securities lending programme may lead to long-term frictions in financial markets. Securities lending and short selling facilitates price discovery that aids liquidity and allows for better settlement of transactions. Furthermore, securities lending benefits lenders and borrowers by allowing the former to create additional income that translates to value for the underlying investors. Borrowers are enabled to short sell the securities with a view to creating profit or value as well for settlement purposes.

1.1.2 The current generation of financial and regulatory experts have worked to heal and reconstruct financial systems over the last thirteen years, now faces a unique challenge with the COVID-19 crisis. However, the current financial downturn is significantly different, as its strikes against the backdrop of a much stronger financial architecture, including well capitalised banks. The Financial Stability Board (FSB) Regional Consultative Group (RCG) for the Middle East and North Africa (MENA) has recently highlighted:
“as a result of the post-crisis reforms, the global financial system is now in a better position to withstand shocks, maintain market functioning and sustain the supply of financing to support the real economy”\textsuperscript{v}. More than ever, beneficial owners must resolve to promote securities lending\textsuperscript{vi} that improves and strengthens market liquidity, underpinned with transparent and responsible working practices entrenched into PSSL. These Principles focus on strengthening the sustainability of securities lending, including short selling, with a view to maintaining liquid markets.

1.1.3 PSSL is advancing sustainable securities lending through the leading work of influential beneficial owners\textsuperscript{vii} that are organisations representing the interest of underlying investors – such as pension savers. ICSF hosts the Principles and is collaborating closely with its partners towards effective implementation that will have a positive impact on the global financial markets and sustainability agendas.

1.1.4 PSSL is unique as it is the first dedicated global mechanism that combines finance and sustainability expertise with the view to advancing sustainable securities lending. Hence, we drafted PSSL to bring to light ‘specialist’ and sector-specific principles (tax, voting, collateral and short selling), and generalist principles that form part of other sustainable finance mechanisms\textsuperscript{ix} (alignment, transparency, and stakeholder involvement). We have also introduced a new principle on ‘innovation’ to bring to light pioneering solutions that take place in this rapidly evolving market\textsuperscript{x}.

1.1.5 PSSL has been created to enhance, not restrict, the distinct securities lending dynamic with a particular focus on its significant role in enhancing market liquidity.

1.2 Sustainability & Short Selling

1.2.1 Short selling allows a borrower to sell securities (i.e. stocks, bonds, and shares) to another party in the hope of repurchasing it, later, at a lower price. The nature of this has led some commentators to, incorrectly, frame short selling as a practice that drives stock prices down.\textsuperscript{xi}

1.2.2 Borrowers use sophisticated methodologies to assess the performance of companies to identify those that underperform. Such research allows borrowers to make certain predictions on the future price of securities and capitalise on them. As such, short selling helps to mitigate price bubbles and provides greater impetus on corporate directorship to perform. Since weak performing companies are not in the interest of wider society, such practices translate into a tangible sustainability benefit. In addition, short selling can be used for several other purposes that benefit the end-users such as hedging positions.

1.2.3 ICSF’s role is to promote transparent market practices that align with PSSL to the furthest extent possible. Freedom of contract with attached confidentiality clauses governs these relationships, and has allowed markets to thrive for many years. Moreover, a particular legal feature of the market is that lending a security involves a transfer of title, affording the borrower additional flexibility. Nevertheless, we have addressed sustainable securities lending in our principle on short selling:
“We stress that covered short selling is beneficial to financial markets. It is part of the essential market mechanism that facilitates price discovery and liquidity. It also reduces the asymmetry in a market participant’s ability to express an opinion on the value of assets.

Beneficial owners must not knowingly facilitate any form of manipulative market activity or abusive short selling.”

1.2.3 Our position is that both securities lending and short selling are positive mechanisms in this context, as long as they conform with the overarching PSSL. Obviously, we acknowledge that PSSL is dynamic and, as such, we are working with our partners and regulators on potential amendments, as appropriate.

1.3 Bans on Short Selling

1.3.1 Short selling was banned by some regulators during the 2008 global financial crisis\textsuperscript{xiii}, and the European debt crisis in 2012\textsuperscript{xiv}. As a global response to the COVID-19 pandemic, eight markets in Europe and Asia have short selling bans in place at the point of writing this paper.\textsuperscript{xx}. However, several regulators such as FCA in the UK and BaFin\textsuperscript{xvii} took an opposite stance, with the former arguing that the UK markets “have continued to operate in an orderly fashion”\textsuperscript{xvii}.

1.3.2 Short selling is an essential tool for hedging strategies, and short selling bans have had adverse effects on those relying on these techniques, particularly in certain jurisdictions\textsuperscript{xviii}. Moreover, the Federal Reserve Bank of New York admitted that the ban on short sales failed to slow the decline in stock prices in 2008. To the contrary, the lack of liquidity caused stocks subject to short selling restrictions to perform worse than stocks free of such restraints, as shown during the stress markets of 2011\textsuperscript{xix}.

1.3.3 There is no evidence that the current short selling has led to stock prices falling in the context of the COVID-19 crisis. Rather, investors have simply shed their holdings as a logical response to this growing threat. We must also highlight that the current temporary bans were introduced at the peak of volatility. Although markets recovered, slightly, following the introduction of current bans in Europe, this was just a respite and the decline resumed soon after. This suggests that the bans failed to maintain an upward trajectory for stock prices in affected jurisdictions\textsuperscript{xx}.

1.3.4 The ICSF position is that an inconsistent approach by global regulators is counterproductive and that further positive guidance on best practice is required. As mentioned above, we need to make sure that short selling aligns with PSSL and, if so, allow for such activities to take place during the current crisis. We strongly believe that securities lending and any resulting short selling aligned with PSSL will stimulate the markets, increase investor confidence, and support both liquidity and fair pricing in financial markets. This, in turn, may potentially contribute to mitigate the effects of this COVID-19 crisis.

2. Collaboration for Sustainable Securities Lending

As recent decisions to ban short selling were made to inhibit the decline in equity markets, we would like to learn more about the evidence base behind them by working together with regulators. We see a clear benefit
of such a collaboration - united by a common desire to strengthen global markets, encourage diversity and inclusion, and reinforce the overall sustainable finance agenda.

2.2 In particular, we are interested in learning how regulators may wish to avoid the difficulties that beneficial owners and other market participants face as a result of the ad hoc and temporary short selling bans. The economy needs to move quickly, and sustainable securities lending will improve liquidity in the markets.

2.3 Such collaboration would enable ICSF to strengthen our evidence base and make effective decisions on the implementation of PSSL, and if necessary, further amendments to this sustainable finance mechanism. We are conscious of the severity of the current crisis and that it may lead to redefining the global sustainable finance agenda. In result, we stress the need to involve ICSF in any further work relating to this matter.

The work on this paper was led by Dr Radek Stech, the ICSF Chair, with considerable contributions from members on the Council Executive. We would encourage any responses to this paper to be sent to Dr Radek Stech at icsfchair@isla.co.uk


Securities lending is a distinct finance dynamic that constitutes one of the key mechanisms for market efficiency with the significant potential to influence ESG credentials of asset owners’ investments. It enables a collateralised transfer of securities from the lender (beneficial owner) to another party through either an agent lender or other intermediary (i.e. service provider).

Aberdeen Standard Investments; Aviva Investors; BlackRock; KBC Asset Management NV; NN Investment Partners; and PGGM.


Securities lending used to be a mainly back office activity, now gaining prominence and occupying front offices in many organisations. It has a rapidly developing architecture with, for example, dedicated Global Master Securities Lending Agreement (GMSLA) hosted by ISLA (ISLA 2020). Legal Agreements. Available at: <https://www.isla.co.uk/legal-agreements/> accessed 7 April 2020.


PSSL, supra note 1.


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Financial Conduct Authority (2020). Statement on UK markets. Available at: <https://www.fca.org.uk/news/statements/statement-uk-markets>; Nicol, D. (2020). No evidence short selling drives market falls, says UK’s FCA. Securities Lending Times. Available at: <https://www.securitieslendingtimes.com/securitieslendingnews/regulation/article.php?article_id=223766> accessed 7 April 2020; Stafford, P., Fletcher, L. and Smith, R. (2020) Regulators across short selling drive market falls, says UK’s FCA. Securities Lending Times. Available at: <https://www.ft.com/content/14a95d33-48w1-444a-939c-4a4e4-b34a45c23228?accessType=limited&token=zwaAXFUIumeYkcxU8jqV0ztNkmtOKiNkRcylkA.MEQcGImuHcrjy1X_UXtI5Rimq8DV8D6C0hObw5nYryOslj/AIAAB8WjDmD_fTMcWyUb6A3ihuQjFgOGOFGpd92jTR2Fg&sharetype=gif?token=0d1a3cc1-1a6a-42d0-b36a-b6208d95e82d> accessed on 7 April 2020.


Following our analysis, Euro Stoxx 50 was at the lowest on March 18th. It then recovered till the 26th and then lost another 6.5% till April 3rd. The volatility is the inverse of the index, peaking on March 16th and 18th, before declining towards 24th, then gaining again till the end of March. See also, Jones, H. (2020). Short-selling bans not useful: stock exchanges federation. Reuters. Available at: <https://www.reuters.com/article/us-health-coronavirus-exchange-idUSKBN21H0VX> accessed 7 April 2020; Block, C. (2020) Bans on short selling are handouts to the ‘corporate socialists’. The Financial Times. Available at: <https://www.ft.com/content/ccf6b816-4e1c-4b01-8921-4d2cc5a4cf5a> accessed 7 April 2020.